

AN ACT

relating to the licensing, acquisition, regulation, and taxation of manufactured housing; providing administrative and criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.003, Occupations Code, is amended to read as follows:

Sec. 1201.003. DEFINITIONS. In this chapter:

(1) "Advertisement" means a commercial message that promotes the sale, exchange, or lease-purchase of a manufactured home and that is presented on radio, television, a public-address system, or electronic media or appears in a newspaper, a magazine, a flyer, a catalog, direct mail literature, an inside or outside sign or window display, point-of-sale literature, a price tag, or other printed material. The term does not include educational material or material required by law.

(2) "Affiliate" means a person who is under common control.

(3) "Alteration" means the replacement, addition, modification, or removal of equipment in a new manufactured home after sale by a manufacturer to a retailer but before sale and installation by a retailer to a purchaser in a manner that may affect the home's construction, fire safety, occupancy, or plumbing, heating, or electrical system. The term includes the

1 modification of a manufactured home in a manner that may affect the  
2 home's compliance with the appropriate standards but does not  
3 include:

4 (A) the repair or replacement of a component or  
5 appliance that requires plug-in to an electrical receptacle, if the  
6 replaced item is of the same configuration and rating as the  
7 replacement; or

8 (B) the addition of an appliance that requires  
9 plug-in to an electrical receptacle and that was not provided with  
10 the manufactured home by the manufacturer, if the rating of the  
11 appliance does not exceed the rating of the receptacle to which the  
12 appliance is connected.

13 (4) [~~(2-a)~~] "Attached" in reference to a manufactured  
14 home means that the home has been:

15 (A) installed in compliance with the rules of the  
16 department; and

17 (B) connected to a utility, including a utility  
18 providing water, electric, natural gas, propane or butane gas, or  
19 wastewater service.

20 (5) [~~(3)~~] "Board" means the Manufactured Housing  
21 Board within the Texas Department of Housing and Community Affairs.

22 (6) [~~(4)~~] "Broker" means a person engaged by one or  
23 more other persons to negotiate or offer to negotiate a bargain or  
24 contract for the sale, exchange, or lease-purchase of a  
25 manufactured home for which a certificate or other document of  
26 title has been issued and is outstanding. The term does not include  
27 a person who maintains a location for the display of manufactured

1 homes.

2           (7) [~~(5)~~] "Business use" means the use of a  
3 manufactured home for a purpose other than as a permanent or  
4 temporary dwelling.

5           (8) [~~(6)~~] "Consumer" means a person, other than a  
6 person licensed under this chapter, who seeks to acquire or  
7 acquires by purchase, exchange, or lease-purchase a manufactured  
8 home.

9           (9) "Control" means, with respect to another person,  
10 the possession of the power, directly or indirectly, to vote an  
11 interest of 25 percent or more.

12           (10) [~~(7)~~] "Department" means the Texas Department of  
13 Housing and Community Affairs operating through its manufactured  
14 housing division.

15           (11) [~~(8)~~] "Director" means the executive director of  
16 the manufactured housing division of the Texas Department of  
17 Housing and Community Affairs.

18           (12) [~~(9)~~] "HUD-code manufactured home":

19                   (A) means a structure:

20                           (i) constructed on or after June 15, 1976,  
21 according to the rules of the United States Department of Housing  
22 and Urban Development;

23                           (ii) built on a permanent chassis;

24                           (iii) designed for use as a dwelling with or  
25 without a permanent foundation when the structure is connected to  
26 the required utilities;

27                           (iv) transportable in one or more sections;

1 and

2 (v) in the traveling mode, at least eight  
3 body feet in width or at least 40 body feet in length or, when  
4 erected on site, at least 320 square feet;

5 (B) includes the plumbing, heating, air  
6 conditioning, and electrical systems of the home; and

7 (C) does not include a recreational vehicle as  
8 defined by 24 C.F.R. Section 3282.8(g).

9 (13) [~~(10)~~] "Installation" means the temporary or  
10 permanent construction of the foundation system and the placement  
11 of a manufactured home or manufactured home component on the  
12 foundation. The term includes supporting, blocking, leveling,  
13 securing, anchoring, and properly connecting multiple or  
14 expandable sections or components and making minor adjustments.

15 (14) [~~(11)~~] "Installer" means a person, including a  
16 retailer or manufacturer, who contracts to perform or performs an  
17 installation function on manufactured housing.

18 (15) [~~(12)~~] "Label" means a device or insignia that  
19 is:

20 (A) issued by the director to indicate compliance  
21 with the standards, rules, and regulations established by the  
22 United States Department of Housing and Urban Development; and

23 (B) permanently attached to each transportable  
24 section of each HUD-code manufactured home constructed after June  
25 15, 1976, for sale to a consumer.

26 (16) [~~(13)~~] "Lease-purchase" means entering into a  
27 lease contract for a manufactured home, in which the lessor retains

1 title, containing a provision or, in another agreement, conferring  
2 on the lessee an option to purchase a manufactured home.

3 (17) [~~(14)~~] "License holder" or "licensee" means a  
4 person who holds a department-issued license as a manufacturer,  
5 retailer, broker, rebuilder, salesperson, or installer.

6 (18) [~~(15)~~] "Manufactured home" or "manufactured  
7 housing" means a HUD-code manufactured home or a mobile home.

8 (19) [~~(16)~~] "Manufacturer" means a person who  
9 constructs or assembles manufactured housing for sale, exchange, or  
10 lease-purchase in this state.

11 (20) [~~(17)~~] "Mobile home":

12 (A) means a structure:

13 (i) constructed before June 15, 1976;

14 (ii) built on a permanent chassis;

15 (iii) designed for use as a dwelling with or  
16 without a permanent foundation when the structure is connected to  
17 the required utilities;

18 (iv) transportable in one or more sections;

19 and

20 (v) in the traveling mode, at least eight  
21 body feet in width or at least 40 body feet in length or, when  
22 erected on site, at least 320 square feet; and

23 (B) includes the plumbing, heating, air  
24 conditioning, and electrical systems of the home.

25 (21) "New manufactured home" means a manufactured home  
26 that is not a used manufactured home, regardless of its age.

27 (22) [~~(18)~~] "Person" means an individual or a

1 partnership, company, corporation, association, or other group,  
2 however organized.

3 (23) "Related person" means a person who directly or  
4 indirectly participates in management or policy decisions.

5 (24) [~~19~~] "Retailer" means a person who:

6 (A) is engaged in the business of buying for  
7 resale, selling, or exchanging manufactured homes or offering  
8 manufactured homes for sale, exchange, or lease-purchase to  
9 consumers, including a person who maintains a location for the  
10 display of manufactured homes; and

11 (B) sells, exchanges, or lease-purchases at  
12 least two manufactured homes to consumers in a 12-month period.

13 (25) "Rules" means the rules of the department.

14 (26) [~~20~~] "Salesperson" means a person who, as an  
15 employee or agent of a retailer or broker, sells or lease-purchases  
16 or offers to sell or lease-purchase manufactured housing to a  
17 consumer [~~for any form of compensation~~].

18 (27) [~~21~~] "Salvaged manufactured home" means a  
19 manufactured home determined to be salvaged under Section 1201.461.

20 (28) [~~22~~] "Seal" means a device or insignia issued  
21 by the director that, for title purposes, is to be attached to a  
22 used manufactured home as required by the director.

23 (29) [~~23~~] "Standards code" means the Texas  
24 Manufactured Housing Standards Code.

25 (30) [~~23-a~~] "Statement of ownership and location"  
26 means a statement issued by the department and setting forth:

27 (A) the ownership and location of a manufactured

1 home [~~that has been sold at a retail sale or installed~~] in this  
2 state as provided by Section 1201.205; and

3 (B) other information required by this chapter.

4 (31) [~~(24)~~ "Trust fund" means the manufactured  
5 homeowners' recovery trust fund.

6 (32) "Used manufactured home" means a manufactured  
7 home which has been occupied for any use or for which a statement of  
8 ownership and location has been issued. The term does not include:

9 (A) a manufactured home that was used as a sales  
10 model at a licensed retail location; or

11 (B) a manufactured home that:

12 (i) was sold as a new manufactured home and  
13 installed but never occupied;

14 (ii) had a statement of ownership and  
15 location; and

16 (iii) was taken back from the consumer or  
17 transferee because of a first payment default or agreement to  
18 rescind or unwind the transaction.

19 SECTION 2. Section 1201.008, Occupations Code, is amended  
20 by adding Subsections (e) and (f) to read as follows:

21 (e) Notwithstanding any zoning or other law, in the event  
22 that a manufactured home occupies a lot in a municipality, the owner  
23 of the manufactured home may remove the manufactured home from its  
24 location and place another manufactured home on the same property,  
25 provided that the replacement is a newer manufactured home and is at  
26 least as large in living space as the prior manufactured home.

27 (f) An owner's ability to replace the home as a result of a

1 fire or natural disaster cannot be restricted. Other than in the  
2 case of a fire or natural disaster, a general-rule or home-rule  
3 municipality by an ordinance or charter may limit the ability of the  
4 owner to replace his home to a single replacement.

5 SECTION 3. Section 1201.053(a), Occupations Code, is  
6 amended to read as follows:

7 (a) The board [~~director~~] shall adopt rules [~~, issue orders,~~]  
8 and otherwise act as necessary to:

9 (1) comply with the National Manufactured Housing  
10 Construction and Safety Standards Act of 1974 (42 U.S.C. Section  
11 5401 et seq.), including adopting and enforcing rules reasonably  
12 required to implement the notification and correction procedures  
13 provided by 42 U.S.C. Section 5414; and

14 (2) provide for the effective enforcement of all  
15 HUD-code manufactured housing construction and safety standards in  
16 order to have the state plan authorized by the National  
17 Manufactured Housing Construction and Safety Standards Act of 1974  
18 (42 U.S.C. Section 5401 et seq.) approved by the secretary of  
19 housing and urban development.

20 SECTION 4. Section 1201.054, Occupations Code, is amended  
21 to read as follows:

22 Sec. 1201.054. PROCEDURE FOR ADOPTING RULES. (a) Rules  
23 must be adopted in accordance with Chapter 2001, Government Code,  
24 and with this section.

25 (b) If requested, the board shall, after at least 10 days'  
26 notice, hold a hearing on any rule that it proposes to adopt, other  
27 than a rule that is to be adopted under emergency rulemaking, in

1 which case only the requirements of Chapter 2001, Government Code,  
2 shall apply [~~A proposed rule must be published in the Texas Register~~  
3 ~~before the 30th day preceding the date of a public hearing set to~~  
4 ~~consider the testimony of interested persons. Notice of the time~~  
5 ~~and place of the public hearing must be published in the Texas~~  
6 ~~Register before the 30th day preceding the date of the hearing].~~

7 (c) [~~A rule as finally adopted must be published in the~~  
8 ~~Texas Register and state the rule's effective date.~~

9 [~~(d)~~] A rule takes effect on the 30th day after the date of  
10 publication of notice that the rule has been adopted, except that a  
11 rule relating to installation standards may not take effect earlier  
12 [~~later~~] than the 60th day after the date of publication of notice  
13 unless the board has determined that an earlier effective date is  
14 required to meet an emergency and the standard was adopted under the  
15 emergency rulemaking provisions of Chapter 2001, Government Code.

16 SECTION 5. Section 1201.055, Occupations Code, is amended  
17 by adding Subsection (c-1) to read as follows:

18 (c-1) The department may permit the use of any device or  
19 procedure that has been reviewed and approved by a licensed  
20 engineer provided that such use or procedure complies with any  
21 instructions, conditions, or other requirements specified by that  
22 engineer.

23 SECTION 6. Section 1201.058, Occupations Code, is amended  
24 to read as follows:

25 Sec. 1201.058. AMOUNT OF FEES. (a) The board shall  
26 establish reasonable fees for all matters under this chapter  
27 providing for fees. If the department's rules provide an option to

1 file a document electronically, the department may charge a  
2 discounted fee for the electronic filing.

3 (b) Ten dollars of the fee for each purchase, exchange, or  
4 lease-purchase of a manufactured home shall be deposited to the  
5 credit of the trust fund and used for the protection programs  
6 described by Subchapter I.

7 (c) All fees established by this chapter or the rules are  
8 deemed to be earned and not subject to refund after receipt by the  
9 department.

10 (d) Notwithstanding Subsection (c), the director may, in  
11 limited and appropriate circumstances and in accordance with rules  
12 adopted by the board, approve the refund of fees [the fees imposed  
13 under Sections 1201.055-1201.057 in amounts that are reasonable and  
14 necessary to cover the cost of administering this chapter].

15 SECTION 7. Section 1201.101, Occupations Code, is amended  
16 by amending Subsections (d), (f), and (g) and adding Subsection  
17 (f-1) to read as follows:

18 (d) A person may not act as an installer [~~perform an~~  
19 ~~installation function on manufactured housing~~] in this state unless  
20 the person holds an installer's license.

21 (f) A person may not act as a salesperson of manufactured  
22 housing unless the person holds a salesperson's license. A  
23 retailer or broker may not employ or otherwise use the services of a  
24 salesperson who is not licensed. A licensed salesperson may not  
25 participate in a sale of a manufactured home unless the sale is  
26 through the retailer or broker who sponsored the salesperson's  
27 application as required by Section 1201.103(d).

1        (f-1) A retailer may be licensed to operate at a principal  
2 location and one or more branch locations under a single license;  
3 provided, however, that a separate application must be made for  
4 each branch, and each branch must be separately bonded.

5        (g) A person may not make an announcement concerning the  
6 sale, exchange, or lease-purchase of, or offer to sell, exchange,  
7 or lease-purchase, a manufactured home to a consumer in this state  
8 through an advertisement unless the person holds a manufacturer's,  
9 retailer's, or broker's license. This subsection does not apply to:

10        (1) a person exempt from licensing [~~to whom a~~  
11 ~~statement of ownership and location has been issued showing the~~  
12 ~~person to be the owner of the home if the person does not offer to~~  
13 ~~sell, exchange, or lease-purchase two or more manufactured homes in~~  
14 ~~a 12-month period~~]; or

15        (2) an advertisement concerning real property on [~~to~~  
16 which there is a manufactured home that has been converted to real  
17 property in accordance with Section 1201.2055 [~~permanently~~  
18 ~~attached~~].

19        SECTION 8. Sections 1201.102(a), (b), and (c), Occupations  
20 Code, are amended to read as follows:

21        (a) A licensed installer may employ unlicensed persons to  
22 assist in performing installation functions provided that the  
23 licensed installer maintains a list of the persons so employed. The  
24 director may issue an order to prohibit a person who is not licensed  
25 as an installer from performing installation functions under the  
26 oversight of a licensed installer [~~An employee who acts as an agent~~  
27 ~~of a license holder is covered by the holder's license and is not~~

1 ~~required to hold an individual license].~~

2 (b) A licensee may engage another person who is not licensed  
3 under this chapter but possesses another license issued by the  
4 State of Texas to provide goods and services subject to that other  
5 license. Without limiting the generality of the foregoing, this  
6 includes engaging others to install, connect, or otherwise work on  
7 air conditioning, plumbing, and electrical systems [~~Except as~~  
8 ~~provided by Section 1201.510, an independent contractor or business~~  
9 ~~entity may not operate under the license of another business entity~~  
10 ~~except as an agent or subcontractor of a licensed installer who is~~  
11 ~~responsible for an installation function performed by the agent or~~  
12 ~~subcontractor].~~

13 (c) An individual who [~~In the case of a sole proprietorship,~~  
14 ~~partnership, or corporation that]~~ holds a retailer's license or  
15 broker's license or who is a related person of such a licensee[~~, an~~  
16 ~~owner, partner, or officer of that entity]~~ is not required to apply  
17 for a salesperson's license [~~if that owner, partner, or officer is~~  
18 ~~properly listed in the retailer's or broker's license application].~~

19 SECTION 9. Section 1201.103, Occupations Code, is amended  
20 by amending Subsections (a) and (d) and adding Subsection (a-1) to  
21 read as follows:

22 (a) An applicant for a license as a manufacturer, retailer,  
23 broker, rebuilder, or installer must file with the director a  
24 license application containing:

25 (1) the legal name, address, and telephone number of  
26 the applicant and each person who will be a related person at the  
27 time the requested license is issued;

1           (2) all [the] trade names, and the names of all other  
2 business organizations, under [name by] which the applicant does  
3 business subject to this chapter [and, if incorporated], the name  
4 of each such business organization registered with the secretary of  
5 state, and the address of such [the] business organization; [and]

6           (3) the dates on which the applicant became the owner  
7 and operator of the business; and

8           (4) the location to which the license will apply.

9           (a-1) All required records of a licensee under Subsection  
10 (a) are to be maintained at the licensee's principal office or such  
11 other location within this state as the licensee may designate.

12           (d) An applicant for a salesperson's license must:

13           (1) file with the director an application that  
14 provides any information the director considers necessary and that  
15 is sponsored by a currently licensed [~~bonded~~] retailer or broker;  
16 and

17           (2) pay the required fee.

18           SECTION 10. Sections 1201.104 and 1201.105, Occupations  
19 Code, are amended to read as follows:

20           Sec. 1201.104. QUALIFICATIONS FOR LICENSE. (a) Except as  
21 provided by Subsection (e), as a requirement [~~prerequisite~~] for a  
22 manufacturer's, retailer's, broker's, installer's, salvage  
23 rebuilder's, or salesperson's license, a person who was not  
24 licensed or registered with the department or a predecessor agency  
25 on September 1, 1987, must, not more than 12 months before applying  
26 for the person's first license under this chapter, attend and  
27 successfully complete 20 hours of instruction in the law, including

1 instruction in consumer protection regulations. If the applicant  
2 is not an individual, the applicant must have at least one related  
3 person who meets this requirement [~~The director may not issue a~~  
4 ~~license to that person until the course of instruction is~~  
5 ~~completed~~].

6 (b) Except in the case of an applicant for a salesperson's  
7 license, successful completion of the course of instruction is a  
8 prerequisite to obtaining the license.

9 (c) An applicant for a salesperson's license may apply for a  
10 license without having completed the course of instruction provided  
11 that the person successfully completes the next scheduled course  
12 offered after the date of the person's licensure. If the person  
13 fails to complete such course successfully and in a timely manner,  
14 the person's license is automatically suspended until the person  
15 successfully completes the course.

16 (d) The course of instruction must be offered at least  
17 quarterly.

18 (e) The board shall adopt rules relating to course content  
19 and approval. Classes must be live. Online or other electronic  
20 classes are not permitted.

21 (f) An applicant for an initial installer's license shall  
22 receive a license on a probationary basis. The person's  
23 probationary status shall remain in effect until such time as a  
24 sufficient number of installations completed by the person have  
25 been inspected by the department and found not to have any  
26 identified material violations of the department's rules. The  
27 board, with the advice of the advisory committee to be established

1 under Section 1201.251, shall adopt rules to establish what  
2 constitutes a sufficient number of installations under this  
3 subsection.

4 (g) [~~(c)~~ ~~Instead of the course of instruction:~~

5 ~~[(1) a manufacturer may request that an authorized~~  
6 ~~representative of the department present a one-day, in-plant~~  
7 ~~training program; or~~

8 ~~[(2) the director may approve a training program for a~~  
9 ~~license applicant that is conducted by a nonprofit educational~~  
10 ~~institution or foundation.~~

11 [~~(d)~~ ~~A manufacturer shall reimburse the department for the~~  
12 ~~actual cost of a program presented under Subsection (c)(1).~~

13 [~~(e)~~ Subsection (a) does not apply to a license holder [~~or~~  
14 ~~registration holder~~] who applies:

15 (1) for a license for an additional business location;

16 or

17 (2) to renew or reinstate a license [~~, or~~

18 [~~(3) for a salesperson's license~~].

19 (h) [~~(f)~~] An examination must [~~may not~~] be a requirement of  
20 successful completion of any initial required course of instruction  
21 under this section [~~made a prerequisite of licensing~~].

22 Sec. 1201.105. SECURITY REQUIRED. (a) The department may  
23 not issue or renew a license unless a bond or other security in a  
24 form prescribed by the director is filed with the department as  
25 provided by this subchapter. The bond or other security is payable  
26 to the trust fund.

27 (b) If a bond is filed, the bond must be issued by a company

1 authorized to do business in this state and must conform to  
2 applicable provisions of the Insurance Code. If other security is  
3 filed, that security must be maintained in or by a federally insured  
4 depository [~~banking~~] institution located in this state.

5 (c) If the department experiences significant problems in  
6 obtaining timely reimbursements from a surety or the surety has  
7 experienced a deterioration in its financial condition, the board  
8 may direct the director to stop accepting bonds issued by the  
9 surety.

10 SECTION 11. Section 1201.106, Occupations Code, is amended  
11 by amending Subsection (a) and adding Subsection (a-1) to read as  
12 follows:

13 (a) An applicant for a license or a license holder shall  
14 file a bond or other security under Section 1201.105 for the  
15 issuance or renewal of a license in the following amount:

16 (1) \$100,000 for a manufacturer;

17 (2) \$50,000 for a retailer's principal location  
18 [~~retailer~~];

19 (3) \$50,000 for each retailer's branch location;

20 (4) \$50,000 [~~\$30,000~~] for a rebuilder;

21 (5) [~~(4)~~] \$50,000 for a broker; or

22 (6) \$25,000 [~~(5) \$10,000~~] for an installer.

23 (a-1) Notwithstanding the provisions of Subsection (a), the  
24 director may require additional security for the licensing,  
25 renewal, or relicensing of a person who, either directly, as a  
26 related person, or through a related person, has been the subject of  
27 a license revocation, has caused the trust fund to incur

1 unreimbursed costs or liabilities in excess of available surety  
2 bond coverage, or has failed to pay an administrative penalty that  
3 has been assessed by final order.

4 SECTION 12. Section 1201.108, Occupations Code, is amended  
5 to read as follows:

6 Sec. 1201.108. SECURITY: CHANGE IN OWNERSHIP OR  
7 LOCATION. (a) A new bond is not required for a change in:

- 8 (1) ownership of a licensee or a business entity under  
9 which [~~corporation that is~~] a license holder conducts business; or  
10 (2) location.

11 (b) A licensee shall notify the department of a change  
12 described by Subsection (a) not later than the 10th day before the  
13 date the change occurs.

14 (c) After a change described by Subsection (a), the licensee  
15 shall provide to the department a proper endorsement to the  
16 original bond showing that the bond continues to apply to the  
17 license without interruption [~~The director may require a proper~~  
18 ~~endorsement of the original bond~~].

19 SECTION 13. Sections 1201.113(a), (b), and (c), Occupations  
20 Code, are amended to read as follows:

21 (a) The board shall approve [~~recognize, prepare,~~] or  
22 administer [~~certification and~~] continuing education programs for  
23 licensees [~~salespersons regulated~~] under this chapter. A  
24 continuing education program must be at least eight hours long and  
25 must include the current rules of the department and such other  
26 matters as the board may deem relevant.

27 (b) Attendance at an approved or administered continuing

1 education course described by Subsection (a) is a prerequisite to  
2 renewal of a license [~~A person who holds a salesperson's license~~  
3 ~~must participate in certification and continuing education~~  
4 ~~programs as provided by Subsection (e)].~~

5 (c) No test shall be given in relation to any continuing  
6 education program [~~To prepare or administer a certification or~~  
7 ~~continuing education program under this section, the board may~~  
8 ~~contract with:~~

9 [~~(1) a private, nonprofit organization that qualifies~~  
10 ~~for an exemption from federal income taxation under Section 501(a),~~  
11 ~~Internal Revenue Code of 1986, by being listed as an exempt~~  
12 ~~organization under Section 501(c)(3) of that code; or~~

13 [~~(2) an educational institution].~~

14 SECTION 14. Section 1201.114, Occupations Code, is amended  
15 to read as follows:

16 Sec. 1201.114. LICENSE EXPIRATION; PROBATIONARY  
17 LICENSE. (a) Any license under this chapter other than a  
18 probationary [~~A manufacturer's, retailer's, broker's, or~~  
19 ~~installer's]~~ license is valid for [~~one year. A salesperson's~~  
20 ~~license is valid for]~~ two years. A license may be renewed as  
21 provided by the director. A person whose license has been suspended  
22 or revoked or whose license has expired may not engage in activities  
23 that require a license until the license has been reinstated or  
24 renewed.

25 (b) If the director determines that a licensed salesperson  
26 or installer should receive a probationary license, the director  
27 may issue a probationary license on such terms and for such period

1 as are deemed reasonable. The issuance of a license on a  
2 probationary basis, any one or more of the specific terms of the  
3 probation, or the period of probation may be appealed before the  
4 31st day after issuance of the probationary license by written  
5 notice to the director. If appeal is made, the director shall set  
6 the matter for a hearing before the State Office of Administrative  
7 Hearings, and all administrative proceedings relating to the  
8 issuance of the probationary license shall be deemed to be a  
9 contested case under Chapter 2001, Government Code. If no appeal is  
10 made, the probationary license shall be issued and shall remain in  
11 effect in accordance with the terms specified [~~The board by rule may~~  
12 ~~adopt a system under which licenses expire on various dates during~~  
13 ~~the year. For the year in which the license expiration date is~~  
14 ~~changed, the department shall prorate license fees on a monthly~~  
15 ~~basis so that each license holder pays only that portion of the~~  
16 ~~license fee that is allocable to the number of months during which~~  
17 ~~the license is valid. On renewal of the license on the new~~  
18 ~~expiration date, the total license renewal fee is payable].~~

19 SECTION 15. Subchapter C, Chapter 1201, Occupations Code,  
20 is amended by adding Section 1201.118 to read as follows:

21 Sec. 1201.118. RULES RELATING TO CERTAIN PERSONS. The  
22 board shall adopt rules providing for additional review and  
23 scrutiny of any application for an initial or renewal license that  
24 involves a person who has previously:

25 (1) been found in a final order to have participated in  
26 one or more violations of this chapter that served as grounds for  
27 the suspension or revocation of a license;

1           (2) been found to have engaged in activity subject to  
2 this chapter without possessing the required license;

3           (3) caused the trust fund to incur unreimbursed  
4 payments or claims; or

5           (4) failed to abide by the terms of a final order,  
6 including the payment of any assessed administrative penalties.

7           SECTION 16. Section 1201.1505, Occupations Code, is amended  
8 to read as follows:

9           Sec. 1201.1505. DEPOSIT ON SPECIALLY ORDERED MANUFACTURED  
10 HOMES. A retailer may require a [~~an earnest money~~] deposit on a  
11 specially ordered manufactured home [~~only if:~~

12           ~~[(1) an earnest money contract has been signed by all~~  
13 ~~parties;~~

14           ~~[(2) if applicable, the original binding loan~~  
15 ~~commitment letter issued by the lender is delivered to the~~  
16 ~~consumer; and~~

17           ~~[(3) the consumer has not rescinded the contract under~~  
18 ~~Section 1201.1521].~~

19           SECTION 17. The heading to Section 1201.151, Occupations  
20 Code, is amended to read as follows:

21           Sec. 1201.151. REFUNDS [~~REFUND OF DEPOSIT~~].

22           SECTION 18. Section 1201.151, Occupations Code, is amended  
23 by amending Subsection (a) and adding Subsection (e) to read as  
24 follows:

25           (a) Except as otherwise provided by this section, a  
26 retailer [~~, salesperson, or agent of the retailer~~] must refund a  
27 consumer's deposit not later than the 15th day after the date that a

1 written request for the refund is received from the consumer.

2 (e) A deposit becomes a down payment upon execution of a  
3 binding written agreement. Thereafter, if the consumer exercises a  
4 right of rescission, the retailer shall, not later than the 15th day  
5 after the date of the rescission, refund to the consumer all money  
6 and other consideration received from the consumer, without offset  
7 or deduction.

8 SECTION 19. Section 1201.1521, Occupations Code, is amended  
9 to read as follows:

10 Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE, EXCHANGE,  
11 OR LEASE-PURCHASE OF HOME. (a) A person who acquires a  
12 manufactured home from or through a licensee by purchase, exchange,  
13 or lease-purchase may, not later than the third day after the date  
14 the applicable contract is signed, rescind the contract without  
15 penalty or charge.

16 (b) Subject to rules adopted by the board, a consumer may  
17 waive a right of rescission in the event of a bona fide emergency.  
18 Such rules shall, to the extent practical, be modeled on the federal  
19 rules for the waiver of a right of rescission under 12 C.F.R. Part  
20 226.

21 SECTION 20. Section 1201.158, Occupations Code, is amended  
22 to read as follows:

23 Sec. 1201.158. SALESPERSON. A licensed salesperson may  
24 work only for the salesperson's sponsoring [~~for more than one~~]  
25 retailer or broker [~~or at more than one sales location~~].

26 SECTION 21. Section 1201.159, Occupations Code, is amended  
27 by amending Subsection (a) and adding Subsections (c) and (d) to

1 read as follows:

2 (a) Except as provided by Section 1201.456, a [A] broker  
3 shall ensure that the seller gives the buyer the applicable  
4 disclosures and warranties that the buyer would have received if  
5 the buyer had purchased the manufactured home through a licensed  
6 retailer.

7 (c) A broker shall provide any person who engages the  
8 broker's services with a written disclosure of which interests in  
9 the transaction, if any, the broker represents.

10 (d) If the seller is required to possess a license by this  
11 chapter, a broker may assist in the sale of a manufactured home only  
12 if that seller has a current license.

13 SECTION 22. Section 1201.161, Occupations Code, is amended  
14 by amending Subsections (a) and (d) and adding Subsection (e) to  
15 read as follows:

16 (a) Notwithstanding any other statute or rule or ordinance,  
17 a licensed retailer or licensed installer is not required to obtain  
18 a permit, certificate, or license or pay a fee to transport  
19 manufactured housing to the place of installation except as  
20 required by~~+~~

21 [~~1~~] ~~the department, or~~

22 [~~2~~] the Texas Department of Transportation under  
23 Subchapter E, Chapter 623, Transportation Code.

24 (d) Unless the information provided for in Subsection (c) is  
25 provided electronically, the [The] department shall pay the  
26 reasonable cost of providing the copies or the list and information  
27 under Subsection (c).

1        (e) The copies and lists to be provided under this section  
2 may be provided electronically.

3        SECTION 23. Section 1201.162, Occupations Code, is amended  
4 to read as follows:

5        Sec. 1201.162. DISCLOSURE BY RETAILER AND LENDER. (a)  
6 Before the completion of a credit application or more than one day  
7 before entering into any agreement for a sale, exchange, or the  
8 exercise of the lease purchase option that will not be financed, the  
9 retailer [~~or agent~~] must provide to the consumer a written  
10 disclosure in the form promulgated by the board. The disclosure  
11 shall be in at least 12-point type and must address matters of  
12 concern relating to costs and obligations that may be associated  
13 with home ownership, matters to be considered in making financing  
14 decisions, related costs that may arise when purchasing a  
15 manufactured home, and such other matters as the board may deem  
16 appropriate to promote informed purchase, financing, and related  
17 decisions regarding the acquisition and ownership of a manufactured  
18 home. The form shall also conspicuously disclose the consumer's  
19 right of rescission.

20        (b) [the following statement that is printed in at least  
21 12-point type and not attached to or combined with any other written  
22 material:

23        [~~When buying a manufactured home, there are a number of~~  
24 ~~important considerations, including price, quality of~~  
25 ~~construction, features, floor plan, and financing alternatives.~~

26        [~~The United States Department of Housing and Urban~~  
27 ~~Development (HUD) helps protect consumers through regulation and~~

1 ~~enforcement of HUD design and construction standards for~~  
2 ~~manufactured homes. Manufactured homes that meet HUD standards are~~  
3 ~~known as 'HUD-code manufactured homes.'~~ The Texas Department of  
4 ~~Housing and Community Affairs regulates Texas manufacturers,~~  
5 ~~retailers, brokers, salespersons, installers, and rebuilders of~~  
6 ~~manufactured homes.~~

7 ~~["If you plan to place a manufactured home on land that you~~  
8 ~~own or will buy, you should consider items such as:~~

9 ~~["ZONING AND RESTRICTIVE COVENANTS. Municipalities or~~  
10 ~~subdivisions may restrict placement of manufactured homes on~~  
11 ~~certain lots, may prohibit the placement of homes within a certain~~  
12 ~~distance from property lines, may require that homes be a certain~~  
13 ~~size, and may impose certain construction requirements. You may~~  
14 ~~need to obtain building permits and homeowner association approval~~  
15 ~~before you place a manufactured home on a certain lot. Contact the~~  
16 ~~local municipality, county, and subdivision manager to find out if~~  
17 ~~you can place the manufactured home of your choice on a certain lot.~~

18 ~~["WATER. Be sure that your lot has access to water. If you~~  
19 ~~must drill a well, contact several drillers for bids. If water is~~  
20 ~~available through a municipality, utility district, water~~  
21 ~~district, or cooperative, you should inquire about the rates you~~  
22 ~~will have to pay and the costs necessary to join the water system.~~

23 ~~["SEWER. If your lot is not serviced by a municipal sewer~~  
24 ~~system or utility district, you will have to install an on-site~~  
25 ~~sewer facility (commonly known as a septic system). There are a~~  
26 ~~number of concerns or restrictions that will determine if your lot~~  
27 ~~is adequate to support an on-site sewer facility. Check with the~~

1 ~~local county or a licensed private installer to determine the~~  
2 ~~requirements that apply to your lot and the cost to install such a~~  
3 ~~system.~~

4 ~~["HOMEOWNER ASSOCIATION FEES. Many subdivisions have~~  
5 ~~mandatory assessments and fees that lot owners must pay. Check with~~  
6 ~~the manager of the subdivision in which your lot is located to~~  
7 ~~determine if any fees apply to your lot.~~

8 ~~["TAXES. Your home will be appraised and subject to ad~~  
9 ~~valorem taxes as are other single-family residential structures.~~  
10 ~~These taxes must be escrowed with your monthly payment, except that~~  
11 ~~your lender is not obligated to impose an escrow requirement in a~~  
12 ~~real property transaction involving a manufactured home if the~~  
13 ~~lender is a federally insured financial institution and does not~~  
14 ~~otherwise require the escrow of taxes, insurance premiums, fees, or~~  
15 ~~other charges in connection with loans secured by residential real~~  
16 ~~property. On closing, you will be notified of all provisions~~  
17 ~~pertaining to federal truth in lending disclosures.~~

18 ~~["INSURANCE. Your lender may require you to obtain insurance~~  
19 ~~that meets lender requirements and protects your investment. You~~  
20 ~~should request quotes from the agent of your choice to obtain the~~  
21 ~~insurance.~~

22 ~~["TYPES OF MORTGAGES AVAILABLE. The acquisition of a~~  
23 ~~manufactured home may be financed by a real estate mortgage or a~~  
24 ~~chattel mortgage. A real estate mortgage may have a lower interest~~  
25 ~~rate than a chattel mortgage.~~

26 ~~["RIGHT OF RESCISSION. If you acquire a manufactured home,~~  
27 ~~by purchase, exchange, or lease-purchase, you may, not later than~~

1 ~~the third day after the date the applicable contract is signed,~~  
2 ~~rescind the contract without penalty or charge."~~

3 ~~[(d)]~~ A federally insured financial institution or lender  
4 approved or authorized by the United States Department of Housing  
5 and Urban Development as a mortgagee with direct endorsement  
6 underwriting authority that fully complies with federal Truth in  
7 Lending disclosures concerning the terms of a manufactured housing  
8 transaction is exempt from the disclosure provisions of this  
9 section.

10 (c) The right of rescission described in Subsection (a)  
11 shall apply only to the sale transaction between the retailer and  
12 the consumer.

13 ~~[(e)]~~ Failure by the retailer to comply with the disclosure  
14 provisions of this section does not affect the validity of a  
15 subsequent conveyance or transfer of title of a manufactured home  
16 or otherwise impair a title or lien position of a person other than  
17 the retailer. The consumer shall continue to have the right of  
18 rescission with regard to the retailer until the end of the third  
19 day after the retailer delivers a copy of the disclosure required by  
20 Subsection (a). The consumer's execution of a signed receipt of a  
21 copy of the disclosure required by Subsection (a) shall constitute  
22 conclusive proof of the delivery of the disclosure. If the consumer  
23 grants a person other than the retailer a lien on the manufactured  
24 home, the right of rescission shall immediately cease on the filing  
25 of the lien with the department.

26 SECTION 24. Section 1201.164, Occupations Code, is amended  
27 to read as follows:

1           Sec. 1201.164. ADVANCE COPY OF [~~INSTALLMENT~~] CONTRACT AND  
2 DISCLOSURE STATEMENTS; OFFER BY RETAILER. (a) In a transaction  
3 that is to be financed and that will not be subject to the federal  
4 Real Estate Settlement Procedures Act of 1974 (Pub. L. No. 93-533)  
5 and its implementing regulations [~~chattel mortgage transaction~~  
6 ~~involving an installment contract~~], a retailer shall deliver to a  
7 consumer at least 24 hours before the contract is fully executed the  
8 contract, with all required information included, signed by the  
9 retailer. The delivery of the [~~installment~~] contract, with all  
10 required information included, signed by the retailer constitutes a  
11 firm offer by the retailer. Except as provided for in Subsection  
12 (b), the [~~The~~] consumer may accept the offer not earlier than 24  
13 hours after the delivery of the contract. If the consumer has not  
14 accepted the offer within 72 hours after the delivery of the  
15 contract, the retailer may withdraw the offer.

16           (b) The consumer may modify or waive the right to rescind  
17 and the deadlines for disclosures before the execution of the  
18 contract that are provided by Subsection (a) if the consumer  
19 determines that the purchase of the manufactured home is needed to  
20 meet a bona fide personal emergency. If the consumer has a bona  
21 fide personal emergency that necessitates the immediate purchase of  
22 the manufactured home, the consumer shall give the retailer a dated  
23 written statement that describes the emergency, specifically  
24 modifies or waives the notice periods and any right of rescission,  
25 and bears the signature of all of the consumers entitled to the  
26 disclosures and right of rescission. In such event the retailer  
27 shall immediately give the consumer all of the disclosures required

1 by this code and sell the manufactured home without the required  
2 waiting periods or the right of rescission. Printed forms for this  
3 purpose are prohibited except in a county that has been declared  
4 by the governor to be a major disaster area. If the governor  
5 declares a county to be a major disaster area, the retailer may use  
6 printed forms promulgated by the department. This exception shall  
7 expire one year after the county has been declared a major disaster  
8 area.

9 SECTION 25. Sections 1201.203, 1201.204, and 1201.205,  
10 Occupations Code, are amended to read as follows:

11 Sec. 1201.203. FORMS; RULES. (a) The board [~~director~~]  
12 shall [~~prescribe forms and~~] adopt rules and forms relating to:

- 13 (1) the manufacturer's certificate;  
14 (2) the statement of ownership and location;  
15 (3) the application for a statement of ownership and  
16 location; and

17 (4) the issuance of an initial or revised [~~a~~]  
18 statement of ownership [~~and location at the first retail sale and~~  
19 ~~for a subsequent sale or transfer of a manufactured home~~].

20 (b) The board [~~director~~] shall adopt rules for the  
21 documenting of the ownership and location of a manufactured home  
22 that has been previously owned in this state or another state. The  
23 rules must protect a lienholder recorded with the department [~~on a~~  
24 ~~statement of ownership and location, a certificate, or other~~  
25 ~~document of title~~].

26 Sec. 1201.204. MANUFACTURER'S CERTIFICATE. (a) A  
27 manufacturer's certificate must show:

1           (1) on a form prescribed by the director [~~or on another~~  
2 ~~document~~], the original transfer of a manufactured home from the  
3 manufacturer to the retailer; and

4           (2) on a form prescribed by the director, each  
5 subsequent transfer of a manufactured home between retailers and  
6 from retailer to owner, if the transfer from retailer to owner  
7 involves a completed application for the issuance of a statement of  
8 ownership and location.

9           (b) At the first retail sale of a manufactured home, a  
10 manufacturer's certificate automatically converts to a document  
11 that does not evidence any ownership interest in the manufactured  
12 home described in the document. A security interest in inventory  
13 evidenced by a properly recorded inventory finance lien [~~the~~  
14 ~~manufacturer's certificate~~] automatically converts to a security  
15 interest in proceeds and cash proceeds.

16           (c) After the first retail sale of a manufactured home, the  
17 retailer must [~~may~~] submit the original manufacturer's certificate  
18 for that home to the department. If an application for an initial  
19 statement of ownership is made without the required manufacturer's  
20 certificate and the retailer does not provide it as required, the  
21 department shall, on or before the issuance of the requested  
22 statement of ownership and location, send written notice to each  
23 party currently reflected on the department's records as having a  
24 recorded lien on the inventory of that retailer. Failure to include  
25 the original manufacturer's certificate with such an application  
26 does not impair a consumer's ability to obtain, on submittal of an  
27 otherwise complete application, a statement of ownership and

1 location free and clear of any liens other than liens created by or  
2 consented to by the consumer.

3 Sec. 1201.205. STATEMENT OF OWNERSHIP AND LOCATION FORM. A  
4 statement of ownership and location must be evidenced by a  
5 board-approved form issued by the department setting forth  
6 [provide]:

7 (1) the name [~~names~~] and address [~~addresses~~] of the  
8 [~~purchaser and~~] seller and the name and, if it is different from the  
9 location of the home, the mailing address of the new owner;

10 (2) the manufacturer's name and address and any model  
11 designation, if available;

12 (3) in accordance with the board's [~~director's~~] rules:

13 (A) the outside dimensions of the manufactured  
14 home when installed for occupancy, as measured to the nearest  
15 one-half foot at the base of the home, exclusive of the tongue or  
16 other towing device; and

17 (B) the approximate square footage of the home  
18 when installed for occupancy;

19 (4) the identification number for each section or  
20 module of the home;

21 (5) the physical address where [~~county of this state~~  
22 ~~in which~~] the home is installed for occupancy, including the name of  
23 the county, and, if it is different from the physical address, the  
24 mailing address of the owner of the home;

25 (6) in chronological order of recordation, the date of  
26 each lien, other than a tax lien, on the home and the name and  
27 address of each lienholder, or, if a lien is not recorded, a

1 statement of that fact;

2 (7) a statement regarding tax liens as follows:

3 "On January 1st of each year, a new tax lien comes into  
4 existence on a manufactured home in favor of each taxing unit having  
5 jurisdiction where the home is actually located on January 1st. In  
6 order to be enforced, any such lien must be recorded with the Texas  
7 Department of Housing and Community Affairs - Manufactured Housing  
8 Division as provided by law. You may check that division's records  
9 through its website or contact that division to learn any recorded  
10 tax liens. To find out about the amount of any unpaid tax  
11 liabilities, contact the tax office for the county where the home  
12 was actually located on January 1st of that year." [~~the signature of~~  
13 ~~the owner in ink, given on receipt of the document]~~;

14 (8) a statement that if two or more eligible persons,  
15 as determined by Section 1201.213, file with the application for  
16 the issuance of a statement of ownership and location an agreement  
17 signed by all the persons providing that the home is to be held  
18 jointly with a right of survivorship, the director shall issue the  
19 statement of ownership and location in all the names;

20 (9) the location of the home;

21 (10) a statement of whether the owner has elected to  
22 treat the home as real property or personal property;

23 (11) statements of whether the home is a salvaged  
24 manufactured home and whether the home is reserved for business use  
25 only; and

26 (12) any other information the board [~~director~~]  
27 requires.

1 SECTION 26. Section 1201.2055, Occupations Code, is amended  
2 by amending Subsection (b) and adding Subsection (i) to read as  
3 follows:

4 (b) A statement of election under Subsection (a) must be  
5 executed before a notary on the form of application for statement  
6 and ownership and location promulgated by the board [~~made by~~  
7 ~~affidavit~~].

8 (i) Notwithstanding the 60-day deadline specified in  
9 Subsection (d), if the closing of a mortgage loan to be secured by  
10 real property including the manufactured home is held, the loan is  
11 funded, and a deed of trust covering the real property and all  
12 improvements on the property is recorded and the licensed title  
13 company or attorney who closed the loan failed to complete the  
14 conversion to real property in accordance with this chapter, the  
15 holder or servicer of the loan may apply for a statement of  
16 ownership and location electing real property status, obtain a  
17 certified copy of the statement of ownership and location, and make  
18 the necessary filings and notifications to complete such conversion  
19 at any time provided that:

20 (1) the record owner of the home, as reflected on the  
21 department's records, has been given at least 60 days' prior written  
22 notice at:

23 (A) the location of the home and, if it is  
24 different, the mailing address of the owner as specified in the  
25 department records; and

26 (B) any other location the holder or servicer  
27 knows or believes, after a reasonable inquiry, to be an address

1 where the owner may have been or is receiving mail or is an address  
2 of record;

3 (2) such notification shall be given by certified  
4 mail; and

5 (3) the department by rule shall require evidence that  
6 the holder or servicer requesting such after-the-fact completion of  
7 a real property election has complied with the requirements of this  
8 subsection.

9 SECTION 27. Sections 1201.206, 1201.207, 1201.2075,  
10 1201.2076, and 1201.208, Occupations Code, are amended to read as  
11 follows:

12 Sec. 1201.206. APPLICATION FOR ISSUANCE OF STATEMENT OF  
13 OWNERSHIP AND LOCATION. (a) [~~(b)~~] At the first retail sale of a  
14 manufactured home, the retailer shall provide for the installation  
15 of the home and ensure that the application for the issuance of a  
16 statement of ownership and location is properly completed. The  
17 consumer shall return the completed application to the retailer.  
18 In accordance with Section 1201.204, the retailer shall surrender  
19 to the department the original manufacturer's statement of origin  
20 at the same time that the retailer applies for the first statement  
21 of ownership and location.

22 (b) [~~(c)~~] Not later than the 60th [~~30th~~] day after the date  
23 of the retail sale, the retailer shall provide to the department the  
24 completed application for the issuance of a statement of ownership  
25 and location. If for any reason the retailer does not timely comply  
26 with the requirements of this subsection, the consumer may apply  
27 for the issuance of the statement.

1           (c) [~~(d)~~] Not later than the 60th [~~30th~~] day after the date  
2 of each subsequent sale or transfer of a home that is considered to  
3 be personal property, the seller or transferor shall provide to the  
4 department a completed application for the issuance of a new  
5 statement of ownership and location. If for any reason the seller  
6 or transferor does not timely comply with the requirements of this  
7 subsection, the consumer may apply for the issuance of the  
8 statement.

9           (d) If the seller accepts a trade-in manufactured home as  
10 part of the consideration for the sale of another manufactured  
11 home, the seller shall file a completed application for the  
12 issuance of a new statement of ownership and location reflecting  
13 the change of ownership of the trade-in manufactured home from the  
14 prospective buyer to the seller. The seller shall file the  
15 application for the issuance of a new statement of ownership and  
16 location for the traded in manufactured home at the same time that  
17 the seller files the application for the issuance of a new statement  
18 of ownership and location for the manufactured home that was sold by  
19 the seller. If the seller is a retailer, the seller shall indicate  
20 on the application for the issuance of the new statement of  
21 ownership and location whether the trade-in manufactured home has  
22 been added to the inventory of the retailer.

23           (e) Ownership of a manufactured home does not pass or vest  
24 at a sale or transfer of the home until a completed application for  
25 the issuance of a statement of ownership and location is filed with  
26 the department.

27           (f) If the owner of a manufactured home relocates the home,

1 the owner shall apply for the issuance of a new statement of  
2 ownership and location not later than the 60th [~~30th~~] day after the  
3 date the home is relocated. The department shall require that the  
4 owner submit evidence that the home was relocated in accordance  
5 with the requirements of the Texas Department of Transportation.

6 (g) When the seller files an application for the issuance of  
7 a statement of ownership and location for a used manufactured home  
8 that is not in a retailer's inventory, the seller shall also file  
9 with the department a statement from the tax assessor-collector  
10 that there are no personal property taxes due on the manufactured  
11 home that may have accrued on each January 1 that falls within the  
12 18 months before the date of the sale.

13 (h) If a person selling a manufactured home to a consumer  
14 for residential use fails to file with the department the  
15 application for the issuance of a statement of ownership and  
16 location and the appropriate filing fee before the 61st day after  
17 the date of the sale, the department may assess a fee of at least  
18 \$100 against the seller. The department shall have the authority to  
19 enforce the collection of any fee from the seller through judicial  
20 means. The department shall place on the application for the  
21 issuance of a statement of ownership and location the following  
22 legend in a clear and conspicuous manner:

23 "THE FILING OF AN APPLICATION FOR THE ISSUANCE OF A STATEMENT  
24 OF OWNERSHIP AND LOCATION LATER THAN SIXTY (60) DAYS AFTER THE DATE  
25 OF A SALE TO A CONSUMER FOR RESIDENTIAL USE MAY RESULT IN A FEE OF UP  
26 TO ONE HUNDRED DOLLARS (\$100.00). ANY SUCH APPLICATION THAT IS  
27 SUBMITTED LATE MAY BE DELAYED UNTIL THE FEE IS PAID IN FULL."

1        (i) When a properly completed notice of installation on the  
2 department's promulgated form is filed that relates to a secondary  
3 move, the notice must be accompanied by either:

4            (1) one true and correct copy of the original notice of  
5 installation; or

6            (2) a certification that a true and correct copy of the  
7 notice of installation has been provided to the chief appraiser for  
8 the county in which the home was installed; the delivery of the copy  
9 of the notice to the chief appraiser may be accomplished either by  
10 certified mail or by electronic mailing of the electronically  
11 reproduced document in a commonly readable format.

12        (i-1) If the method specified in Subsection (i)(2) is used  
13 to report the installation, the department may adopt a discounted  
14 fee for the filing of the notice of installation.

15        (j) In addition to providing each chief appraiser the  
16 monthly report required by Section 1201.220, the department shall,  
17 on request, provide the tax collector one copy of any requested  
18 reported notice of installation.

19        (k) Notwithstanding any provision in this chapter to the  
20 contrary, if a person has acquired a manufactured home and the owner  
21 of record or any intervening owners of liens or equitable interests  
22 cannot be located to assist in documenting the chain of title, the  
23 department may issue a statement of ownership and location to the  
24 person claiming ownership if the person can provide a supporting  
25 affidavit describing the chain of title and such reasonable  
26 supporting proof as the director may require.

27        Sec. 1201.207. ISSUANCE OF STATEMENT OF OWNERSHIP AND

1 LOCATION. (a) Except as provided for in Subsection (a-1), the  
2 ~~[The]~~ department shall process any completed application for the  
3 issuance of a statement of ownership and location not later than the  
4 15th working day after the date the application is received by the  
5 department. If the department rejects an application, the  
6 department shall provide a clear and complete explanation of the  
7 reason for the rejection and instructions on how to cure any  
8 defects, if possible.

9 (a-1) For the period immediately following June 30 of each  
10 year, the department shall, except for applications relating to new  
11 manufactured homes and applications accompanied by a tax  
12 certificate, cease issuing statements of ownership and location  
13 until all tax liens filed with the department before June 30 have  
14 been processed and either recorded or rejected. During this period  
15 the department will post on its website a notice as to when it is  
16 anticipated that processing statements of ownership and location  
17 will resume and when it is anticipated that such processing will be  
18 within the 15-working-day time frame provided by Subsection (a).

19 (b) If the department issues a statement of ownership and  
20 location for a manufactured home, the department shall maintain a  
21 record of the issuance in its electronic records ~~[place in its files~~  
22 ~~the original statement of ownership and location]~~ and shall mail a  
23 ~~[certified]~~ copy to the owner and each ~~[of the home and to any]~~  
24 lienholder.

25 (c) Except with respect to any change in use, but subject to  
26 Section 1201.2075, if the department has issued a statement of  
27 ownership and location for a manufactured home, the department may

1 issue a subsequent statement of ownership and location for the home  
2 only if all parties reflected in the department's records as having  
3 an interest in the manufactured home give their written consent or  
4 release their interest, either in writing or by operation of law, or  
5 the department has followed the procedures provided by Section  
6 1201.206(k) to document ownership and lien status. Once the  
7 department issues a statement of ownership and location, the  
8 department shall not alter the record of the ownership or lien  
9 status of a manufactured home for any activity occurring before the  
10 issuance of the statement of ownership and location without either  
11 the written permission of the owner of record for the manufactured  
12 home, their legal representative, or a court order.

13 (d) Notwithstanding any other provision of this chapter, if  
14 the consumer purchases a new manufactured home from a licensed  
15 retailer in the ordinary course of business, whether or not a  
16 statement of ownership and location has been issued for the  
17 manufactured home, the consumer is a bona fide purchaser for value  
18 without notice and is entitled to ownership of the manufactured  
19 home free and clear of all liens and to a statement of ownership and  
20 location reflecting the same on payment by the consumer of the  
21 purchase price to the retailer. If there is an existing lien on the  
22 new manufactured home perfected with the department, the owner of  
23 the lien is entitled to recover the value of the lien from the  
24 retailer.

25 (e) Notwithstanding any other provision of this chapter, if  
26 the consumer purchases a used manufactured home from a retailer in  
27 the ordinary course of business, the consumer takes the

1 manufactured home free and clear of any liens created by the selling  
2 retailer even if they are recorded.

3       Sec. 1201.2075. CONVERSION FROM PERSONAL PROPERTY TO REAL  
4 PROPERTY. (a) Except as provided by Subsection (b) or Section  
5 1201.206(k), the department may not issue a statement of ownership  
6 and location for a manufactured home that is being converted from  
7 personal property to real property until:

8               (1) each lien on the home is released by the  
9 lienholder; or

10              (2) each lienholder gives written consent, to be  
11 placed on file with the department.

12       (b) The department may issue a statement of ownership and  
13 location before the release of any liens or the consent of any  
14 lienholders as required by this section [~~only~~] if the department  
15 releases a certified copy of the statement to:

16              (1) a licensed title insurance company that has issued  
17 a commitment to issue a title insurance policy covering all prior  
18 liens on the home in connection with a loan that the title company  
19 has closed; or

20              (2) a federally insured financial institution or  
21 licensed attorney who has obtained from a licensed title insurance  
22 company a title insurance policy covering all prior liens on the  
23 home.

24       Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL  
25 PROPERTY. (a) The department may not issue a statement of  
26 ownership and location for a manufactured home that is being  
27 converted from real property to personal property until the

1 department has inspected the home and determined that it is  
2 habitable and has notified the appropriate tax assessor-collector  
3 of the conversion and:

4 (1) each lien, including a tax lien, on the home is  
5 released by the lienholder; or

6 (2) each lienholder, including a taxing unit, gives  
7 written consent, to be placed on file with the department.

8 (b) For the purposes of Subsection (a)(1), the department  
9 may rely on a commitment for title insurance, a title insurance  
10 policy, or a lawyer's title opinion to determine that any liens on  
11 real property have been released.

12 Sec. 1201.208. PAYMENT OF TAXES REQUIRED FOR ISSUANCE OF  
13 STATEMENT OF OWNERSHIP AND LOCATION. (a) Any licensee who sells,  
14 exchanges, or lease-purchases a new manufactured home to any  
15 consumer is responsible for the payment of all required sales and  
16 use tax on such home [~~The department may not issue a statement of~~  
17 ~~ownership and location for a new manufactured home installed for~~  
18 ~~occupancy in this state unless the state sales and use tax has been~~  
19 ~~paid~~].

20 (b) If it is determined that a new manufactured home was  
21 sold, exchanged, or lease-purchased without the required sales and  
22 use tax being paid, the payment shall be made from the fund, up to  
23 the available penal amount of the licensee's bond or the remaining  
24 balance of the security for the license, and a claim for  
25 reimbursement shall be filed with the licensee's surety or the  
26 amount deducted from the security for the license [~~Proof of payment~~  
27 ~~may be shown in any manner prescribed by the department~~].

1           SECTION 28. Section 1201.210, Occupations Code, is amended  
2 by amending Subsection (c) and adding Subsection (d) to read as  
3 follows:

4           (c) A notice of appeal and request for hearing must be filed  
5 with the director not later than the 30th day after the date of  
6 notice of the director's action. If appeal is not timely made, the  
7 revocation or suspension described in the notice of the director's  
8 action becomes final.

9           (d) Until a revocation or suspension has become final, the  
10 department shall place a hold on any activity relating to the  
11 statement of ownership and location other than the recordation of  
12 liens, including tax liens.

13           SECTION 29. Section 1201.214(b), Occupations Code, is  
14 amended to read as follows:

15           (b) An owner or lienholder may provide to the department a  
16 [the] document of title and any additional information required by  
17 the department and request that the department issue a statement of  
18 ownership and location to replace the document of title. The  
19 department shall mail to the owner or lienholder a [certified] copy  
20 of the statement of ownership and location issued under this  
21 subsection.

22           SECTION 30. Section 1201.216(a), Occupations Code, is  
23 amended to read as follows:

24           (a) If the owner of a manufactured home notifies the  
25 department that the owner intends to treat the home as real property  
26 or to reserve its use for a business purpose or salvage, the  
27 department shall indicate on the statement of ownership and

1 location for the home that:

2 (1) the owner of the home has elected to treat the home  
3 as real property or to reserve its use for a business purpose or  
4 salvage; and

5 (2) except as provided by Section 1201.2055(h), the  
6 home is [department] no longer ~~[considers the home to be]~~ a  
7 manufactured home for purposes of regulation under this chapter or  
8 of recordation of liens, including tax liens.

9 SECTION 31. Section 1201.217, Occupations Code, is amended  
10 by amending Subsections (b) and (c) and adding Subsection (f) to  
11 read as follows:

12 (b) Before declaring a manufactured home abandoned, the  
13 owner of real property on which the home is located must send a  
14 notice of intent to declare the home abandoned to the record owner  
15 of the home, ~~[and]~~ all lienholders at the addresses listed on the  
16 home's statement of ownership and location on file with the  
17 department, and the tax collector for each taxing unit that imposes  
18 ad valorem taxes on the real property where the home is located.  
19 The notice must include the address where the home is currently  
20 located. If the person giving such notice knows that the person to  
21 whom the notice is being given no longer resides and is no longer  
22 receiving mail at such address, a reasonable effort shall be made to  
23 locate the person and give the person notice at an address where the  
24 person is receiving mail. Mailing of the notice by certified mail,  
25 return receipt requested, postage prepaid, to the persons required  
26 to be notified by this subsection constitutes conclusive proof of  
27 compliance with this subsection.

1 (c) On receipt of a notice of intent to declare a  
2 manufactured home abandoned, the record owner of the home, ~~or~~ a  
3 lienholder, or a tax assessor-collector for a taxing unit that  
4 imposes ad valorem taxes on the real property on which the home is  
5 located may enter the real property on which the home is located to  
6 remove the home. The real property owner must disclose to the  
7 record owner, lienholder, or tax assessor-collector seeking to  
8 remove the home the location of the home and grant the person  
9 reasonable access to the home. A person removing a home is  
10 responsible to the real property owner for any damage to the real  
11 property resulting from the removal of the home.

12 (f) This section does not apply if the person who owns the  
13 real property on which the manufactured home is located and who is  
14 declaring that the home is abandoned, or any person who is related  
15 to or affiliated with that person, has now, or has ever owned, an  
16 interest in the manufactured home.

17 SECTION 32. Sections 1201.219 and 1201.220, Occupations  
18 Code, are amended to read as follows:

19 Sec. 1201.219. PERFECTION AND EFFECT OF LIENS. (a) A lien  
20 on manufactured homes in inventory is perfected only by filing the  
21 lien ~~[a security agreement]~~ with the department on the required  
22 form ~~[in a form that contains the information the director~~  
23 ~~requires]~~. Once perfected, the lien applies to the manufactured  
24 homes in the inventory as well as to any proceeds from the sale of  
25 those homes. The department may suspend or revoke the license of a  
26 retailer who fails to satisfy a perfected inventory lien ~~[under the~~  
27 ~~terms of the security agreement]~~.

1           (b) Except as provided by Subsection (a), a lien on a  
2 manufactured home is perfected only by filing with the department  
3 the notice of lien on a form provided by the department. The form  
4 shall require the disclosure of the original dollar amount of the  
5 lien and, if a tax lien, the name and address of the person in whose  
6 name the manufactured home is listed on the tax roll. The  
7 department shall disclose on its website the date of each lien  
8 filing, the original amount of the lien claimed by each filing, and  
9 the fact that the amount shown does not include additional sums  
10 including interest, penalties, and attorney's fees. The statement  
11 required by Section 1201.205(7) [~~recordation of a lien with the~~  
12 ~~department~~] is notice to all persons that the tax lien exists.  
13 Except as expressly provided by Chapter 32, Tax Code, a lien  
14 recorded with the department has priority, according to the  
15 chronological order of recordation, over another lien or claim  
16 against the manufactured home. Tax liens shall be filed by the tax  
17 collector for any taxing unit having the power to tax the  
18 manufactured home. A single filing by a tax collector is a filing  
19 for all the taxing units for which the tax collector is empowered to  
20 collect.

21           (c) Notwithstanding any other provision of this or any other  
22 law [~~subchapter~~], the filing of a lien security agreement [~~by a~~  
23 ~~secured party perfecting a lien~~] on the inventory of a retailer does  
24 not prevent a buyer in the ordinary course of business, as defined  
25 by Section 1.201, Business & Commerce Code, from acquiring good and  
26 marketable title free of that lien [~~interest~~], and the department  
27 may not consider that [~~security interest as a~~] lien for the purpose

1 of title issuance.

2           Sec. 1201.220. REPORT                   TO                   COUNTY                   TAX  
3 ASSESSOR-COLLECTOR. (a) The department shall provide to each  
4 county tax assessor-collector in this state a monthly report that,  
5 for each manufactured home reported as having been installed in the  
6 county during the preceding month and for each manufactured home  
7 previously installed in the county for which a transfer of  
8 ownership was recorded by the issuance of a statement of ownership  
9 and location during the preceding month, lists:

- 10                   (1) the name of the owner of the home;
- 11                   (2) the name of the manufacturer of the home, if  
12 available;
- 13                   (3) the model designation of the home, if available;
- 14                   (4) the identification number of each section or  
15 module of the home;
- 16                   (5) the address or location where the home was  
17 reported as [~~is~~] installed; and
- 18                   (6) the reported date of the installation of the home.

19           (b) The director shall provide a copy of the report to the  
20 chief appraiser of the appraisal district established for the  
21 county in which the home is reported as installed.

22           SECTION 33. The heading to Section 1201.251, Occupations  
23 Code, is amended to read as follows:

24           Sec. 1201.251. STANDARDS AND REQUIREMENTS ADOPTED BY BOARD  
25 [~~DIRECTOR~~].

26           SECTION 34. Section 1201.251, Occupations Code, is amended  
27 by amending Subsection (a) and adding Subsections (d) and (e) to

1 read as follows:

2 (a) The board [~~director~~] shall adopt standards and  
3 requirements for:

4 (1) the installation and construction of manufactured  
5 housing that are reasonably necessary to protect the health,  
6 safety, and welfare of the occupants and the public; and

7 (2) the construction of HUD-code manufactured homes in  
8 compliance with the federal standards and requirements established  
9 under the National Manufactured Housing Construction and Safety  
10 Standards Act of 1974 (42 U.S.C. Section 5401 et seq.).

11 (d) In order to ensure that the determinations required by  
12 this section are properly made by qualified persons:

13 (1) the board's rules may provide for the approval of  
14 foundation systems and devices that have been approved by licensed  
15 engineers; and

16 (2) any generic installation standards promulgated by  
17 rule shall first be reviewed by an advisory committee established  
18 by the board comprised of representatives of manufacturers,  
19 installers, and manufacturers of stabilization systems or devices,  
20 including one or more licensed engineers.

21 (e) The advisory committee established by Subsection (d)  
22 shall make a report to the board setting forth each comment and  
23 concern over any proposed rules. The members of the committee shall  
24 have no personal liability for providing this advice.

25 SECTION 35. Section 1201.252(a), Occupations Code, is  
26 amended to read as follows:

27 (a) A local governmental unit of this state may not adopt a

1 standard for the construction or installation of manufactured  
2 housing in the local governmental unit that is different from a  
3 standard adopted by the board [~~director~~] unless, after a hearing,  
4 the board expressly approves the proposed standard.

5 SECTION 36. Sections 1201.253, 1201.254, and 1201.255,  
6 Occupations Code, are amended to read as follows:

7 Sec. 1201.253. HEARING ON STANDARD OR REQUIREMENT. The  
8 director shall publish notice and conduct a public hearing [~~in~~  
9 ~~accordance with Sections 1201.054 and 1201.060~~] before:

10 (1) adopting a standard or requirement authorized by  
11 this subchapter;

12 (2) amending a standard authorized by this subchapter;  
13 or

14 (3) approving a standard proposed by a local  
15 governmental unit under Section 1201.252.

16 Sec. 1201.254. EFFECTIVE DATE OF REQUIREMENT OR  
17 STANDARD. Each requirement or standard that is adopted, modified,  
18 amended, or repealed by the board [~~director~~] must state its  
19 effective date [~~as provided by Section 1201.054~~].

20 Sec. 1201.255. INSTALLATION OF MANUFACTURED HOUSING. (a)  
21 Except as authorized under Section 1201.252, manufactured housing  
22 that is installed must be installed in compliance with the  
23 standards and rules adopted and orders issued by the department. An  
24 uninstalled manufactured home may not be occupied for any purpose.

25 (b) An installer may not install a manufactured home at a  
26 location on a site that has evidence of ponding, runoff under heavy  
27 rains, or bare uncompacted soil unless the installer first obtains

1 the owner's signature on a form promulgated by the board disclosing  
2 that such conditions may contribute to problems with the  
3 stabilization system for that manufactured home, including  
4 possible damage to that home, and the owner accepts that risk  
5 ~~[director]~~.

6 SECTION 37. Section 1201.301(b), Occupations Code, is  
7 amended to read as follows:

8 (b) In enforcing this chapter, the director may authorize a  
9 state inspector to travel inside or outside of the state to inspect  
10 a licensee ~~[manufacturing facility]~~.

11 SECTION 38. The heading to Section 1201.302, Occupations  
12 Code, is amended to read as follows:

13 Sec. 1201.302. INSPECTION BY LOCAL GOVERNMENTAL UNITS  
14 ~~[ENTITIES OTHER THAN DEPARTMENT]~~.

15 SECTION 39. Sections 1201.302(a) and (b), Occupations Code,  
16 are amended to read as follows:

17 (a) To ensure that a manufactured home sold or installed in  
18 this state complies with the standards code, the director may by  
19 contract provide for a federal agency or an agency or political  
20 subdivision of this state or another state to perform an inspection  
21 or inspection program under this chapter or under rules adopted by  
22 the board ~~[director]~~.

23 (b) On request, the department shall authorize a local  
24 governmental unit in this state to perform an inspection or  
25 enforcement activity related to the construction of a foundation  
26 system or the erection or installation of manufactured housing at a  
27 homesite under a contract or other official designation and rules

1 adopted by the board [~~director~~]. The department may withdraw the  
2 authorization if the local governmental unit fails to follow the  
3 rules, interpretations, and written instructions of the  
4 department.

5 SECTION 40. Sections 1201.351(a) and (b), Occupations Code,  
6 are amended to read as follows:

7 (a) The manufacturer of a new HUD-code manufactured home  
8 shall warrant, in a separate written document, that:

9 (1) the home is constructed or assembled in accordance  
10 with all building codes, standards, requirements, and regulations  
11 prescribed by the United States Department of Housing and Urban  
12 Development under the National Manufactured Housing Construction  
13 and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);  
14 and

15 (2) the home and all appliances and equipment included  
16 in the home are free from defects in materials or workmanship except  
17 for cosmetic defects.

18 (b) The manufacturer's warranty is in effect until at least  
19 the first anniversary of the date of initial installation of the  
20 home at the consumer's homesite or the closing of the consumer's  
21 purchase or acquisition of an already installed new home, whichever  
22 is later.

23 SECTION 41. Sections 1201.352 through 1201.355,  
24 Occupations Code, are amended to read as follows:

25 Sec. 1201.352. RETAILER'S WARRANTY ON A NEW HUD-CODE  
26 MANUFACTURED HOME. (a) The retailer of a new HUD-code  
27 manufactured home shall warrant to the consumer in writing that:

1 (1) installation of the home at the initial homesite  
2 was or will be, as applicable, completed in accordance with all  
3 department standards, rules, orders, and requirements; and

4 (2) appliances and equipment included with the sale of  
5 the home and installed by the retailer are or will be:

6 (A) installed in accordance with the  
7 instructions or specifications of the manufacturers of the  
8 appliances or equipment; and

9 (B) free from defects in materials or  
10 workmanship.

11 The warranty may expressly disclaim or limit any warranty  
12 regarding cosmetic defects.

13 (b) The retailer's warranty on a new HUD-code manufactured  
14 home is in effect until the first anniversary of the later of the  
15 date of initial installation of the home at the consumer's homesite  
16 or the closing of the consumer's purchase or acquisition of the  
17 home.

18 (c) Before the signing of a binding retail installment sales  
19 contract or other binding purchase agreement on a new HUD-code  
20 manufactured home, the retailer must give the consumer a copy of:

21 (1) the manufacturer's warranty;

22 (2) the retailer's warranty;

23 (3) the warranties given by the manufacturers of  
24 appliances or equipment included with the home; and

25 (4) the name and address of the manufacturer or  
26 retailer to whom the consumer is to give notice of a warranty  
27 service request.

1        (d) Not later than the 30th day after the installation of a  
2 new HUD-code manufactured home, the retailer shall deliver to the  
3 consumer a copy of the warranty given by the licensed installer.

4        Sec. 1201.353. NOTICE OF NEED FOR WARRANTY SERVICE. (a)  
5 The consumer shall give written notice to the manufacturer, ~~[or]~~  
6 retailer, or installer, as applicable, of a need for warranty  
7 service or repairs.

8        (b) Written notice to the department is deemed to be notice  
9 to the manufacturer, ~~[or]~~ retailer, or installer commencing three  
10 business days after receipt and forwarding of the notice by the  
11 department to the licensee by regular mail or electronic mail of a  
12 scanned copy of the notice.

13        Sec. 1201.354. CORRECTIVE ACTION REQUIRED. The  
14 manufacturer, ~~[or]~~ retailer, or installer, as applicable, shall  
15 take appropriate corrective action within a reasonable period as  
16 required by department rules to fulfill the written warranty  
17 obligation.

18        Sec. 1201.355. CONSUMER COMPLAINT HOME INSPECTION. (a) If  
19 the manufacturer, ~~[or]~~ retailer, or installer does not provide the  
20 consumer with proper warranty service, the consumer may, at any  
21 time, request the department to perform a consumer complaint home  
22 inspection. The department may not charge a fee for the inspection.

23        (b) On payment of the required inspection fee, the  
24 manufacturer, ~~[or]~~ retailer, or installer may request the  
25 department to perform a consumer complaint home inspection if the  
26 manufacturer, ~~[or]~~ retailer, or installer:

27            (1) believes the consumer's complaints are not covered

1 by the warranty of the manufacturer, ~~or~~ retailer, or installer,  
2 as applicable;

3 (2) believes that the warranty service was properly  
4 provided; or

5 (3) disputes responsibility concerning the warranty  
6 obligation.

7 (c) The department shall perform a consumer complaint home  
8 inspection not later than the 30th day after the date of receipt of  
9 a request for the inspection.

10 (d) Notwithstanding any other provision of this section,  
11 the department may make an inspection at any time if it believes  
12 that there is a reasonable possibility that a condition exists that  
13 would present an imminent threat to health or safety.

14 SECTION 42. Sections 1201.356(a), (b), and (c), Occupations  
15 Code, are amended to read as follows:

16 (a) Not later than the 10th day after the date of a consumer  
17 complaint home inspection, the department shall send a written  
18 report and any order to the consumer, manufacturer, ~~and~~ retailer,  
19 and installer by certified mail, return receipt requested.

20 (b) The report shall specify:

21 (1) each of the consumer's complaints; and

22 (2) whether the complaint is covered by ~~either~~ the  
23 manufacturer's, ~~or~~ retailer's, or installer's warranty and, if  
24 so, which of those warranties.

25 (c) The director shall issue to the manufacturer, ~~or~~  
26 retailer, or installer an appropriate order for corrective action  
27 by the manufacturer, ~~or~~ retailer, or installer specifying a

1 reasonable period for completion of the corrective action. With  
2 regard to new manufactured homes, both the installer and the  
3 retailer are responsible for the warranty of installation. If the  
4 department determines that a complaint is covered by the  
5 installation warranty, the director shall issue the order to the  
6 installer for the corrective action. If the installer fails to  
7 perform the corrective action, the installer shall be subject to  
8 the provisions of Section 1201.357. In that instance, the director  
9 shall issue the same order for corrective action to the retailer  
10 with a new time frame not to exceed 10 days unless additional time  
11 is needed for compliance upon a showing of good cause. If the  
12 retailer is compelled to perform corrective action because of the  
13 failure of the installer to comply with the director's order, the  
14 retailer may seek reimbursement from the installer. The period for  
15 the performance of any required warranty work may be shortened by  
16 the director as much as is feasible if the warranty work is believed  
17 necessary to address a possible imminent threat to health or  
18 safety.

19 SECTION 43. Sections 1201.357 and 1201.358, Occupations  
20 Code, are amended to read as follows:

21 Sec. 1201.357. FAILURE TO PROVIDE WARRANTY SERVICE. (a)  
22 If the manufacturer, ~~or~~ retailer, or installer, as applicable,  
23 fails to provide warranty service within a ~~the~~ period specified  
24 by the director ~~[under Section 1201.356]~~, the manufacturer, ~~or~~  
25 retailer, or installer must show good cause in writing as to why the  
26 manufacturer, ~~or~~ retailer, or installer failed to provide the  
27 service.

1 (b) If the manufacturer, ~~[or]~~ retailer, or installer, as  
2 applicable, fails or refuses to provide warranty service in  
3 accordance with the department order under Section 1201.356, the  
4 director shall hold an informal meeting ~~[a hearing]~~ at which the  
5 manufacturer, ~~[or]~~ retailer, or installer must show cause as to why  
6 the manufacturer's, ~~[or]~~ retailer's, or installer's license should  
7 not be suspended or revoked and at which the consumer may express  
8 the person's views. Following the meeting, the director shall  
9 either resolve the matter by agreed order, dismiss the matter if no  
10 violation is found to have occurred, or institute an administrative  
11 action, which may include license suspension or revocation, the  
12 assessment of administrative penalties, or a combination of such  
13 actions.

14 (c) If the manufacturer, ~~[or]~~ retailer, or installer is  
15 unable to provide warranty service in accordance with the  
16 department order under Section 1201.356 as a result of an action of  
17 the consumer, the manufacturer, ~~[or]~~ retailer, or installer must  
18 make that allegation in the written statement required by  
19 Subsection (a). The department shall investigate the allegation,  
20 and if the department determines that the allegation is credible,  
21 the department shall issue a new order specifying the date and time  
22 of the proposed corrective action. The department shall send the  
23 order to the consumer and the manufacturer, ~~[or]~~ retailer, or  
24 installer, as applicable, by certified mail, return receipt  
25 requested. If the consumer refuses to comply with the department's  
26 new order, the manufacturer, ~~[or]~~ retailer, or installer, as  
27 applicable:

1 (1) is discharged from the obligations imposed by the  
2 relevant department orders;

3 (2) has no liability to the consumer with regard to  
4 that warranty; and

5 (3) is not subject to an action by the department for  
6 failure to provide warranty service.

7 Sec. 1201.358. FAILURE TO SHOW GOOD CAUSE; HEARING  
8 RESULTS. (a) Failure by the manufacturer, ~~[or]~~ retailer, or  
9 installer to show good cause under Section 1201.357(a) is a  
10 sufficient basis for suspension or revocation of the  
11 manufacturer's, ~~[or]~~ retailer's, or installer's license.

12 (b) If the director determines that an order was incorrect  
13 regarding a warranty obligation, the director shall issue a final  
14 order stating the correct warranty obligation and the right of the  
15 manufacturer, retailer, or installer to indemnification from one of  
16 the other parties [~~after the hearing under Section 1201.357(b), the~~  
17 ~~director determines that the order under Section 1201.356 was~~  
18 ~~correct in the determination of the warranty obligation of the~~  
19 ~~manufacturer or retailer, failure or refusal by the manufacturer or~~  
20 ~~retailer to comply with the order is a sufficient cause for~~  
21 ~~suspension or revocation of the manufacturer's or retailer's~~  
22 ~~license. If the director determines that the order was incorrect~~  
23 ~~regarding that obligation, the director shall issue a final order~~  
24 ~~stating the correct obligation and the right of the manufacturer or~~  
25 ~~retailer to indemnification from the other]~~.

26 (c) The director may issue an order:

27 (1) directing a manufacturer, ~~[or]~~ retailer, or

1 installer whose license is not revoked and who is not out of  
2 business to perform the warranty obligation of a manufacturer, ~~[or]~~  
3 retailer, or installer whose license is revoked or who is out of  
4 business; and

5 (2) giving the manufacturer, ~~[or]~~ retailer, or  
6 installer performing the obligation the right of indemnification  
7 against another party ~~[the other]~~.

8 (d) A manufacturer, ~~[or]~~ retailer, or installer entitled to  
9 indemnification under this section is a consumer for purposes of  
10 Subchapter I and may recover actual damages ~~[and attorney's fees]~~  
11 from the trust fund.

12 SECTION 44. Section 1201.361, Occupations Code, is amended  
13 to read as follows:

14 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all  
15 ~~[secondary] installations [not covered by the retailer's warranty~~  
16 ~~described by Section 1201.352 and for the installation of all used~~  
17 ~~manufactured homes]~~, the installer shall give the manufactured home  
18 owner a written warranty that the installation of the home was  
19 performed in accordance with all department standards, rules,  
20 orders, and requirements. The warranty for the installation of a  
21 new HUD-code manufactured home is to be given by the retailer, who  
22 is responsible for installation. If the retailer subcontracts this  
23 function to a licensed installer, the retailer and installer are  
24 jointly and severally responsible for performance of the warranty.

25 (b) The warranty must conspicuously disclose the  
26 requirement that the consumer notify the installer of any claim in  
27 writing in accordance with the terms of the warranty. Unless the

1 warranty provides for a longer period, the installer or retailer  
2 has no obligation or liability under the person's warranty for any  
3 defect described in a written notice received from the consumer  
4 more than two years after the later of the date of purchase or the  
5 date of [~~the~~] installation.

6 SECTION 45. Subchapter H, Chapter 1201, Occupations Code,  
7 is amended by adding Section 1201.362 to read as follows:

8 Sec. 1201.362. INSPECTIONS NOT LIMITED; CORRECTIONS. (a)  
9 Nothing in this chapter shall limit the ability of the department to  
10 inspect a manufactured home at any time.

11 (b) Notwithstanding the limitations and terms of any  
12 warranty, the director may, whenever the department identifies any  
13 aspect of an installation that does not conform to applicable  
14 requirements, order the licensee who performed the installation to  
15 correct it, or, if that licensee is no longer licensed, reassign  
16 correction to a licensed installer and reimburse the person from  
17 the fund for the costs of correction.

18 SECTION 46. Section 1201.402(a), Occupations Code, is  
19 amended to read as follows:

20 (a) The director shall administer the trust fund [~~as trustee~~  
21 ~~of that fund~~].

22 SECTION 47. Section 1201.404(b), Occupations Code, is  
23 amended to read as follows:

24 (b) The trust fund and the director are not liable to the  
25 consumer if the trust fund does not have the money necessary to pay  
26 the actual damages [~~and attorney's fees~~] determined to be payable.  
27 The director shall record the date and time of receipt of each

1 verified complaint and, as money becomes available, pay the  
2 consumer whose claim is the earliest by date and time to have been  
3 found to be verified and properly payable.

4 SECTION 48. Section 1201.405, Occupations Code, is amended  
5 by adding Subsections (f) and (g) to read as follows:

6 (f) The trust fund is not liable for and the director may not  
7 pay:

8 (1) actual damages to reimburse an affiliate or  
9 related person of a licensee, except when the director issues an  
10 order under Sections 1201.358(b) and (c);

11 (2) actual damages to correct matters that are solely  
12 cosmetic in nature;

13 (3) for attorney's fees; or

14 (4) actual damages to address other matters, unless  
15 the matters involve:

16 (A) a breach of warranty;

17 (B) a failure to return or apply as agreed money  
18 received from a consumer or money for which the consumer was  
19 obligated; or

20 (C) the breach of an agreement to provide goods  
21 or services necessary to the safe and habitable use of a  
22 manufactured home such as steps, air conditioning, access to  
23 utilities, or access to sewage and wastewater treatment.

24 (g) The board by rule may place reasonable limits on the  
25 costs that may be approved for payment from the trust fund,  
26 including the costs of reassigned warranty work, and require  
27 consumers making claims that may be subject to reimbursement from

1 the trust fund to provide estimates establishing that the cost will  
2 be reasonable. Such rules may also specify such procedures and  
3 requirements as the board may deem necessary and advisable for the  
4 administration of the trust fund.

5 SECTION 49. Sections 1201.406 and 1201.407, Occupations  
6 Code, are amended to read as follows:

7 Sec. 1201.406. PROCEDURE FOR RECOVERY FROM TRUST FUND. (a)  
8 To recover from the trust fund, a consumer must file a written,  
9 sworn complaint in the form required by the director not later than  
10 the second anniversary of:

11 (1) the date of the alleged act or omission causing the  
12 actual damages; or

13 (2) the date the act or omission is discovered or  
14 should reasonably have been discovered.

15 (b) On receipt of a verified complaint, the department  
16 shall:

17 (1) notify each appropriate license holder and the  
18 issuer of any surety bond issued in connection with their licenses;  
19 and

20 (2) investigate the claim and issue a preliminary  
21 determination, giving the consumer, the licensee, and any surety an  
22 opportunity to resolve the matter by agreement or to dispute the  
23 preliminary determination.

24 (c) If the matter being investigated is not resolved by  
25 agreement or is disputed by written notice to the director before  
26 the 31st day after the date of the preliminary determination, the  
27 preliminary determination shall automatically become final and the

1 director shall make demand on the surety or deduct any payable  
2 amount of the claim from the licensee's security [~~to determine:~~

3 ~~[(A) the validity of the claim; and~~

4 ~~[(B) whether the complaint can be resolved by~~  
5 ~~remedial action of the license holder].~~

6 Sec. 1201.407. DISAGREEMENT OF PARTIES; INFORMAL DISPUTE  
7 RESOLUTION PROCESS. (a) If a preliminary determination is  
8 disputed, the [~~license holders or a license holder and a consumer~~  
9 ~~disagree as to responsibility for a complaint, the]~~ department  
10 shall conduct an informal dispute resolution process, including a  
11 home inspection if appropriate, to resolve the dispute.

12 (b) For a preliminary determination that has been disputed  
13 [~~claim determined]~~ to become final and [~~be~~] valid, the department  
14 shall make any changes the director determines to be appropriate  
15 and issue another written [~~a~~] preliminary determination [~~during the~~  
16 ~~informal dispute resolution process]~~ as to the responsibility and  
17 liability of the manufacturer, retailer, broker, and installer.

18 (c) Before making a final determination, the department  
19 shall allow [~~provide~~] a license holder 10 days [~~an opportunity]~~ to  
20 comment on this [~~the~~] preliminary determination.

21 (d) After consideration of the comments, if any, the  
22 director shall issue a final determination.

23 (e) The final determination may be appealed to the board on  
24 or before the 10th day after the date of its issuance by giving  
25 written notice to the director, who shall place the matter before  
26 the board at the next meeting held on a date for which the matter  
27 could be publicly posted as required by Chapter 551, Government

1 Code.

2 (f) Any [~~The department shall notify a license holder's~~  
3 ~~surety and give the surety an opportunity to participate in the~~  
4 ~~informal dispute resolution process if the license holder:~~

5 [~~(1) is out of business,~~

6 [~~(2) is no longer licensed, or~~

7 [~~(3) has filed for liquidation or reorganization in~~  
8 ~~bankruptcy.~~

9 [~~(c) If, after receiving notice of the claim, a license~~  
10 ~~holder or the license holder's surety fails or refuses to~~  
11 ~~participate in the informal dispute resolution process, the]~~  
12 license holder or surety, as applicable, is bound by the  
13 department's final determination of responsibility and liability.

14 SECTION 50. Sections 1201.409(a) and (b), Occupations Code,  
15 are amended to read as follows:

16 (a) Except as otherwise provided by Subchapter C, the trust  
17 fund shall be reimbursed by the surety on a bond or from other  
18 security filed under Subchapter C for the amount of a claim that[+]

19 [~~(1)] is paid out of the trust fund by the director to~~  
20 a consumer in accordance with this subchapter [~~, and~~

21 [~~(2) resulted from an act or omission of the license~~  
22 ~~holder who filed the bond or other security].~~

23 (b) Payment by the surety or from the other security must be  
24 made not later than the 30th day after the date of [~~receipt of~~  
25 notice from the director that a consumer claim has been paid.

26 SECTION 51. Section 1201.410, Occupations Code, is amended  
27 to read as follows:

1           Sec. 1201.410. INFORMATION ON RECOVERY FROM TRUST FUND  
2 ~~[INFORMATIONAL PAMPHLET]~~. ~~[(a)]~~ The director shall prepare  
3 information for notifying ~~[a pamphlet informing]~~ consumers of their  
4 rights to recover from the trust fund, shall post the information on  
5 the department's website, and shall make printed copies available  
6 on request.

7           ~~[(b) The director may contract with a private party for the~~  
8 ~~printing and distribution of the pamphlet.]~~

9           SECTION 52. Section 1201.451(b), Occupations Code, is  
10 amended to read as follows:

11           (b) Not later than the 60th ~~[30th]~~ day after the effective  
12 date of the transfer of ownership or the date the seller or  
13 transferor obtains possession of the necessary and properly  
14 executed documents, the seller or transferor shall forward to the  
15 purchaser or transferee the necessary, executed documents. If the  
16 seller or transferor fails to forward the documents on a timely  
17 basis, the purchaser or transferee may apply directly for the  
18 documents. On receipt of the documents, the purchaser or  
19 transferee shall apply for the issuance of a statement of ownership  
20 and location.

21           SECTION 53. Section 1201.453, Occupations Code, is amended  
22 to read as follows:

23           Sec. 1201.453. HABITABILITY. Manufactured housing is  
24 habitable only if:

25           (1) there is no defect or deterioration in or damage to  
26 the home that creates a dangerous situation;

27           (2) the plumbing, heating, and electrical systems are

1 in safe working order;

2 (3) the walls, floor, and roof are:

3 (A) free from a substantial opening that was not  
4 designed; and

5 (B) structurally sound; and

6 (4) all exterior doors and windows are in place and  
7 operate properly.

8 SECTION 54. Section 1201.457(b), Occupations Code, is  
9 amended to read as follows:

10 (b) If a used manufactured home is reserved for business use  
11 or salvaged, a person may not [~~The purchaser of a used manufactured~~  
12 ~~home for business use or the purchaser of a salvaged manufactured~~  
13 ~~home may not sell, exchange, or lease-purchase the home for use as a~~  
14 ~~dwelling or~~] knowingly allow any person to occupy or use the home as  
15 a dwelling unless the director issues a new statement of ownership  
16 and location indicating that the home is no longer reserved for  
17 business use or salvage. On the purchaser's application to the  
18 department for issuance of a new statement of ownership and  
19 location, the department shall inspect the home and, if the  
20 department determines that the home is habitable, issue a new [~~the~~]  
21 statement of ownership and location.

22 SECTION 55. Section 1201.459, Occupations Code, is amended  
23 to read as follows:

24 Sec. 1201.459. COMPLIANCE NOT REQUIRED FOR SALE FOR  
25 COLLECTION OF DELINQUENT TAXES. (a) In selling a manufactured  
26 home to collect delinquent taxes, a tax assessor-collector  
27 [~~collector~~] is not required to comply with this subchapter or

1 another provision of this chapter relating to the sale of a used  
2 manufactured home.

3 (b) If a ~~[the]~~ home does not have a serial number, seal, or  
4 label, the tax appraiser or tax assessor-collector ~~[collector]~~  
5 may~~+~~

6 ~~[(1)]~~ apply to the department for a seal if the tax  
7 appraiser or assessor-collector assumes full responsibility for  
8 the affixation of a seal to the home and the seal is actually  
9 affixed on the home~~+~~

10 ~~[(2) pay the applicable fee; and~~

11 ~~[(3) recover that fee as part of the cost of the sale~~  
12 ~~of the home].~~

13 (c) A ~~[The]~~ seal issued to a tax appraiser or ~~[the]~~ tax  
14 assessor-collector ~~[collector]~~ is for identification purposes only  
15 and does not imply that:

16 (1) the home is habitable; or

17 (2) a purchaser of the home at a tax sale may obtain a  
18 new statement of ownership and location from the department without  
19 an inspection for habitability.

20 SECTION 56. The heading to Section 1201.461, Occupations  
21 Code, is amended to read as follows:

22 Sec. 1201.461. SALVAGED MANUFACTURED HOME; CRIMINAL  
23 PENALTY.

24 SECTION 57. Section 1201.461, Occupations Code, is amended  
25 by adding Subsections (g) and (h) to read as follows:

26 (g) A county or other unit of local government that  
27 identifies a manufactured home within its jurisdiction that has

1 been declared salvage may impose on that home such inspection,  
2 correction, and other requirements as it could apply if the home  
3 were not a manufactured home.

4 (h) A licensee may not participate in the sale, exchange,  
5 lease-purchase, or installation for use as a dwelling of a  
6 manufactured home that is salvage and that has not been repaired in  
7 accordance with this chapter and the department's rules. An act  
8 that is prohibited by this subsection is deemed to be a practice  
9 that constitutes an imminent threat to health or safety and is  
10 subject to the imposition of penalties and other sanctions provided  
11 for by this chapter. A violation of this subsection is a Class B  
12 misdemeanor.

13 SECTION 58. Section 1201.503, Occupations Code, is amended  
14 to read as follows:

15 Sec. 1201.503. PROHIBITED ALTERATION. Before the sale to a  
16 consumer of a new manufactured home to which a label has been  
17 attached and before installation of the home, a manufacturer,  
18 retailer, broker, or installer may not alter the home or cause the  
19 home to be altered without obtaining prior written approval from a  
20 licensed engineer and providing evidence of such approval to the  
21 department.

22 SECTION 59. Section 1201.506(a), Occupations Code, is  
23 amended to read as follows:

24 (a) A retailer or broker:

25 (1) shall comply with Subtitles A and B, Title 4,  
26 Finance Code, and the Truth in Lending Act (15 U.S.C. Section 1601  
27 et seq.); ~~and~~

1 (2) may not advertise an interest rate or finance  
2 charge that is not expressed as an annual percentage rate; and

3 (3) shall comply with all applicable provisions of the  
4 Finance Code.

5 SECTION 60. Subchapter K, Chapter 1201, Occupations Code,  
6 is amended by adding Section 1201.513 to read as follows:

7 Sec. 1201.513. DISPOSITION OF TRADE-INS AND OCCUPANCY OF  
8 HOMES BEFORE CLOSING. (a) A retailer may not sell a trade-in  
9 manufactured home before the closing of the sale in connection with  
10 which the retailer receives the trade-in.

11 (b) A retailer may not knowingly permit a consumer to occupy  
12 a manufactured home that is the subject of a sale, exchange, or  
13 lease-purchase to that consumer before the closing of any required  
14 financing unless the consumer is first given a form adopted by the  
15 board disclosing that if for any reason the financing does not  
16 close, the consumer may be required to vacate the home.

17 SECTION 61. Sections 1201.551, 1201.552, and 1201.553,  
18 Occupations Code, are amended to read as follows:

19 Sec. 1201.551. DENIAL OF LICENSE; DISCIPLINARY  
20 ACTION. (a) The director [~~, after notice as provided for under~~  
21 ~~Section 1201.054 and a hearing as provided by Sections 1201.054 and~~  
22 ~~1201.060,~~] may deny, permanently revoke, or suspend for a definite  
23 period and specified sales location or geographic area a license if  
24 the director determines that the applicant or license holder:

25 (1) knowingly and wilfully violated this chapter or a  
26 rule adopted or order issued under this chapter;

27 (2) unlawfully retained or converted money, property,

1 or any other thing of value from a consumer in the form of a down  
2 payment, sales or use tax, deposit, or insurance premium;

3 (3) failed repeatedly to file with the department a  
4 completed [~~timely provide to a consumer an~~] application for a  
5 statement of ownership and location before the 61st day after the  
6 date of the sale of a manufactured home as required by Section  
7 1201.206 or the date of the installation, whichever occurred later  
8 [~~and any information necessary to complete the application~~];

9 (4) failed to give or breached a manufactured home  
10 warranty required by this chapter or by the Federal Trade  
11 Commission;

12 (5) engaged in a false, misleading, or deceptive act  
13 or practice as described by Subchapter E, Chapter 17, Business &  
14 Commerce Code;

15 (6) failed to provide or file a report required by the  
16 department for the administration or enforcement of this chapter;

17 (7) provided false information on an application,  
18 report, or other document filed with the department;

19 (8) acquired a criminal record during the five-year  
20 period preceding the application date that, in the opinion of the  
21 director, makes the applicant unfit for licensing; [~~or~~]

22 (9) failed to file a bond or other security for each  
23 location as required by Subchapter C; or

24 (10) has had another license issued by this state  
25 revoked or suspended.

26 (b) The director [~~department~~] may suspend or revoke a  
27 license if, after receiving notice of a claim, the license holder or

1 the license holder's surety fails or refuses to pay a final claim  
2 paid from the trust fund for which demand for reimbursement was made  
3 ~~[participate in the informal dispute resolution process described~~  
4 ~~by Section 1201.407]~~.

5 Sec. 1201.552. [~~HEARING CONCERNING~~] LICENSE REVOCATION,  
6 SUSPENSION, OR DENIAL; HEARING. The director may issue an order to  
7 revoke, suspend, or deny a new or renewal license. If, before the  
8 31st day after an order revoking, suspending, or denying a license  
9 is issued, the person against whom the order is issued requests a  
10 hearing by giving written notice to the director, the director  
11 shall set a hearing before the State Office of Administrative  
12 Hearings. If the person does not request a hearing before the 31st  
13 day after the date the order is issued, the order becomes final.  
14 Any administrative proceedings relating to the revocation,  
15 suspension, or denial of a license under this subsection shall be a  
16 contested case under Chapter 2001, Government Code. The board  
17 shall issue an order after receiving a proposal for decision [~~shall~~  
18 ~~conduct a hearing involving the denial, renewal, revocation, or~~  
19 ~~suspension of a license in accordance with Chapter 2001, Government~~  
20 ~~Code]~~.

21 Sec. 1201.553. JUDICIAL REVIEW. Judicial review of any  
22 [~~an~~] order, decision, or determination of the board [~~director~~] is  
23 instituted by filing a petition with a district court in Travis  
24 County as provided by Chapter 2001, Government Code.

25 SECTION 62. Section 1201.605, Occupations Code, is amended  
26 to read as follows:

27 Sec. 1201.605. ADMINISTRATIVE PENALTY. (a) The director

1 may assess against a person who fails to comply with [~~obtain or~~  
2 ~~maintain a license as required by~~] this chapter, the rules adopted  
3 under this chapter, or any final order of the department an  
4 administrative penalty in an amount not to exceed \$10,000 for each  
5 violation of this chapter and:

- 6 (1) reasonable attorney's fees;
- 7 (2) administrative costs;
- 8 (3) witness fees;
- 9 (4) investigative costs; and
- 10 (5) deposition expenses.

11 (b) The director may assess against a licensee [~~retailer~~]  
12 who fails to provide information to a consumer as required by this  
13 chapter an administrative penalty in an amount not to exceed:

- 14 (1) \$1,000 for the first violation;
- 15 (2) \$2,000 for the second violation; and
- 16 (3) \$4,000 for each subsequent violation.

17 (c) In determining the amount of an administrative penalty  
18 assessed under this section, the director shall consider:

- 19 (1) the seriousness of the violation;
- 20 (2) the history of previous violations;
- 21 (3) the amount necessary to deter future violations;
- 22 (4) efforts made to correct the violation; and
- 23 (5) any other matters that justice may require.

24 (d) The director may impose an administrative penalty in  
25 accordance with this section. If, before the 31st day after the  
26 date a person receives notice of the imposition of an  
27 administrative penalty, the person requests a hearing by giving

1 written notice to the director, the director shall set a hearing  
2 before the State Office of Administrative Hearings. If the person  
3 does not request a hearing before the 31st day after the date the  
4 person receives notice of the imposition of the administrative  
5 penalty, the penalty becomes final. Any administrative proceedings  
6 relating to the imposition of an administrative penalty under this  
7 subsection shall be a contested case under Chapter 2001, Government  
8 Code. The board shall issue an order after receiving a proposal for  
9 decision.

10 SECTION 63. Subchapter M, Chapter 1201, Occupations Code,  
11 is amended by adding Sections 1201.607 through 1201.611 to read as  
12 follows:

13 Sec. 1201.607. ISSUANCE OF ORDERS AND REQUESTS FOR  
14 HEARINGS. Any order issued by the director under this chapter, if  
15 not appealed before the 31st day after the date the order was  
16 issued, shall automatically become a final order. If the person  
17 made the subject of the order files a written request for a hearing  
18 with the director, the order shall be deemed to have been appealed  
19 and shall be a contested case under Chapter 2001, Government Code.  
20 The director shall set any appealed order for a hearing before the  
21 State Office of Administrative Hearings, and the board shall issue  
22 a final order after receiving and reviewing the proposal for  
23 decision issued pursuant to such hearing.

24 Sec. 1201.608. INSPECTION OF LICENSEE RECORDS. (a) The  
25 department may inspect a licensee's records during normal business  
26 hours without advance notice if the director believes that such  
27 inspection is necessary to prevent a violation of this chapter, to

1 protect a consumer or another licensee, or to assist another state  
2 or federal agency in an investigation.

3 (b) The director may request or issue subpoenas for a  
4 licensee's records.

5 (c) The department may carry out "sting" or undercover  
6 investigations in accordance with board-adopted rules if the  
7 director believes such action to be appropriate in order to detect  
8 and address suspected violations of this chapter.

9 (d) While an investigation is pending, information obtained  
10 by the department in connection with that investigation is  
11 confidential unless disclosure of the information is specifically  
12 permitted or required by other law.

13 Sec. 1201.609. ACTING WITHOUT LICENSE; CRIMINAL  
14 PENALTY. A person who is not exempt under this chapter and who,  
15 without first obtaining a license required under this chapter,  
16 performs an act that requires a license under this chapter commits  
17 an offense. An offense under this section is a Class B misdemeanor.  
18 A second or subsequent conviction for an offense under this section  
19 is a Class A misdemeanor.

20 Sec. 1201.610. CEASE AND DESIST. (a) If the director has  
21 reasonable cause to believe that a person licensed under this  
22 chapter has violated or is about to violate any provision of this  
23 chapter or rules adopted by the department under this chapter, the  
24 director may issue without notice and hearing an order to cease and  
25 desist from continuing a particular action or an order to take  
26 affirmative action, or both, to enforce compliance with this  
27 chapter.

1       (b) The director may issue an order to any licensee to cease  
2 and desist from violating any law, rule, or written agreement or to  
3 take corrective action with respect to any such violations if the  
4 violations in any way are related to the sale, financing, or  
5 installation of a manufactured home or the providing of goods or  
6 services in connection with the sale, financing, or installation of  
7 a manufactured home unless the matter that is the basis of such  
8 violation is expressly subject to inspection and regulation by  
9 another state agency; provided, however, that if any matter  
10 involves a law that is subject to any other administration or  
11 interpretation by another agency, the director shall consult with  
12 the person in charge of the day-to-day administration of that  
13 agency before issuing an order.

14       (c) An order issued under Subsection (a) or (b) must contain  
15 a reasonably detailed statement of the facts on which the order is  
16 based. If a person against whom the order is issued requests a  
17 hearing before the 31st day after the date the order is issued, the  
18 director shall set and give notice of a hearing. The hearing shall  
19 be governed by Chapter 2001, Government Code. Based on the findings  
20 of fact, conclusions of law, and recommendations of the hearings  
21 officer, the board by order may find that a violation has occurred  
22 or has not occurred.

23       (d) If a hearing is not requested under Subsection (c)  
24 before the 31st day after the date an order is issued, the order is  
25 considered final and not appealable.

26       (e) The director, after giving notice, may impose against a  
27 person who violates a cease and desist order an administrative

1 penalty in an amount not to exceed \$1,000 for each day of the  
2 violation. In addition to any other remedy provided by law, the  
3 director may institute in district court a suit for injunctive  
4 relief and for the collection of the administrative penalty. A bond  
5 is not required of the director with respect to injunctive relief  
6 granted under this subsection.

7 (f) If a person fails to pay an administrative penalty that  
8 has become final or fails to comply with an order of the director  
9 that has become final, in addition to any other remedy provided by  
10 law, the director, after not less than 10 days' notice to the  
11 person, may without a prior hearing suspend the person's license.  
12 The suspension shall continue until the person has complied with  
13 the cease and desist order or paid the administrative penalty.  
14 During the period of suspension, the person may not perform any act  
15 requiring a license under this chapter, and all compensation  
16 received by the person during the period of suspension is subject to  
17 forfeiture to the person from whom it was received.

18 (g) An order of suspension under Subsection (f) may be  
19 appealed. An appeal is a contested case governed by Chapter 2001,  
20 Government Code. A hearing of an appeal of an order of suspension  
21 issued under Subsection (f) shall be held not later than the 15th  
22 day after the date of receipt of the notice of appeal. The  
23 appellant shall be provided at least three days' notice of the time  
24 and place of the hearing.

25 (h) An order revoking the license of a retailer, broker,  
26 installer, or salesperson may provide that the person is  
27 prohibited, without obtaining prior written consent of the

1 director, from being a related person of a licensee.

2 Sec. 1201.611. SANCTIONS AND PENALTIES. (a) The board  
3 shall adopt rules relating to the administrative sanctions that may  
4 be enforced against a person regulated by the department.

5 (b) If a person charged with the violation accepts the  
6 determination of the director, the director shall issue an order  
7 approving the determination and ordering that the person pay the  
8 recommended penalty.

9 (c) Not later than the 30th day after the date on which the  
10 decision is final, the person charged shall:

11 (1) pay the penalty in full; or

12 (2) if the person files a petition for judicial review  
13 contesting the fact of the violation, the amount of the penalty, or  
14 both the fact of the violation and the amount of the penalty:

15 (A) forward the amount assessed to the department  
16 for deposit in an escrow account;

17 (B) in lieu of payment into escrow, post with the  
18 department a supersedeas bond for the amount of the penalty, in a  
19 form approved by the director and effective until judicial review  
20 of the decision is final; or

21 (C) without paying the amount of the penalty or  
22 posting the supersedeas bond, pursue judicial review.

23 (d) A person charged with a penalty who is financially  
24 unable to comply with Subsection (c)(2) is entitled to judicial  
25 review if the person files with the court, as part of the person's  
26 petition for judicial review, a sworn statement that the person is  
27 unable to meet the requirements of that subsection.

1       (e) If the person charged does not pay the penalty and does  
2 not pursue judicial review, the department or the attorney general  
3 may bring an action for the collection of the penalty.

4       (f) Judicial review of the order of the director assessing  
5 the penalty is subject to the substantial evidence rule and shall be  
6 instituted by filing a petition with a district court in Travis  
7 County.

8       (g) If, after judicial review, the penalty is reduced or not  
9 assessed, the director shall remit to the person charged the  
10 appropriate amount, plus accrued interest if the penalty has been  
11 paid, or shall execute a release of the bond if a supersedeas bond  
12 has been posted. The accrued interest on amounts remitted by the  
13 director under this subsection shall be paid at a rate equal to the  
14 rate charged on loans to depository institutions by the New York  
15 Federal Reserve Bank and shall be paid for the period beginning on  
16 the date the assessed penalty is paid to the director and ending on  
17 the date the penalty is remitted.

18       (h) A penalty collected under this section shall be  
19 deposited in the trust fund.

20       (i) All proceedings conducted under this section and any  
21 review or appeal of those proceedings are subject to Chapter 2001,  
22 Government Code.

23       (j) If it appears that a person is in violation of, or is  
24 threatening to violate, any provision of this chapter or a rule or  
25 order related to the administration and enforcement of the  
26 manufactured housing program, the attorney general, on behalf of  
27 the director, may institute an action for injunctive relief to

1 restrain the person from continuing the violation and for civil  
2 penalties not to exceed \$1,000 for each violation and not exceeding  
3 \$250,000 in the aggregate. A civil action filed under this  
4 subsection shall be filed in district court in Travis County. The  
5 attorney general and the director may recover reasonable expenses  
6 incurred in obtaining injunctive relief under this subsection,  
7 including court costs, reasonable attorney's fees, investigative  
8 costs, witness fees, and deposition expenses.

9 SECTION 64. Section 2306.6022(b), Government Code, is  
10 amended to read as follows:

11 (b) The division shall make available on its website  
12 ~~[provide to the person filing the complaint and to each person who~~  
13 ~~is a subject of the complaint a copy of]~~ the division's policies and  
14 procedures relating to complaint investigation and resolution and  
15 shall provide copies of such information on request.

16 SECTION 65. Section 94.051, Property Code, is amended to  
17 read as follows:

18 Sec. 94.051. INFORMATION TO BE PROVIDED TO PROSPECTIVE  
19 TENANT. At the time the landlord receives an application from a  
20 prospective tenant, the landlord shall give the tenant a copy of:

21 (1) the proposed lease agreement for the manufactured  
22 home community;

23 (2) any manufactured home community rules; and

24 (3) a separate disclosure statement with the following  
25 prominently printed in at least 10-point type:

26 "You have the legal right to an initial lease term of six  
27 months. If you prefer a different lease period, you and your

1 landlord may negotiate a shorter or longer lease period. After the  
2 initial lease period expires, you and your landlord may negotiate a  
3 new lease term by mutual agreement. Regardless of the term of the  
4 lease, [~~if the recreational vehicle is tied to, affixed, or~~  
5 ~~otherwise a permanent part of the premises,~~] the landlord must give  
6 you at least 60 days' notice of a nonrenewal of the lease, except  
7 that if the manufactured home community's land use will change, the  
8 landlord must give you at least 180 days' notice [~~if the landlord~~  
9 ~~will not renew your lease and will require that you relocate your~~  
10 ~~manufactured home or recreational vehicle~~]. During the applicable  
11 [~~60-day~~] period, you must continue to pay all rent and other amounts  
12 due under the lease agreement, including late charges, if any,  
13 after receiving notice of the nonrenewal."

14 SECTION 66. Section 94.052(b), Property Code, is amended to  
15 read as follows:

16 (b) Except as provided by Section 94.204, regardless  
17 [~~Regardless~~] of the term of the lease, the landlord must provide  
18 notice to the tenant not later than the 60th day before the date of  
19 the expiration of the lease if the landlord chooses [~~does~~] not to  
20 renew the lease. During the applicable [~~60-day~~] period, the tenant  
21 must pay all rent and other amounts due under the lease agreement,  
22 including late charges, if any, after receiving notice of the  
23 nonrenewal.

24 SECTION 67. Section 94.053(c), Property Code, is amended to  
25 read as follows:

26 (c) A lease agreement must contain the following  
27 information:

- 1           (1) the address or number of the manufactured home lot  
2 and the number and location of any accompanying parking spaces;
- 3           (2) the lease term;
- 4           (3) the rental amount;
- 5           (4) the interval at which rent must be paid and the  
6 date on which periodic rental payments are due;
- 7           (5) any late charge or fee or charge for any service or  
8 facility;
- 9           (6) the amount of any security deposit;
- 10          (7) a description of the landlord's maintenance  
11 responsibilities;
- 12          (8) the telephone number of the person who may be  
13 contacted for emergency maintenance;
- 14          (9) the name and address of the person designated to  
15 accept official notices for the landlord;
- 16          (10) the penalty the landlord may impose for the  
17 tenant's early termination as provided by Section 94.201;
- 18          (11) the grounds for eviction as provided by  
19 Subchapter E;
- 20          (12) a disclosure of the landlord's right to choose not  
21 to renew [~~terminate~~] the lease agreement if there is a change in the  
22 land use of the manufactured home community during the lease term as  
23 provided by Section 94.204;
- 24          (13) a disclosure of any incorporation by reference of  
25 an addendum relating to submetering of utility services;
- 26          (14) a prominent disclosure informing the tenant that  
27 Chapter 94, Property Code, governs certain rights granted to the

1 tenant and obligations imposed on the landlord by law;

2 (15) if there is a temporary zoning permit for the land  
3 use of the manufactured home community, the date the zoning permit  
4 expires; and

5 (16) any other terms or conditions of occupancy not  
6 expressly included in the manufactured home community rules.

7 SECTION 68. The heading to Section 94.204, Property Code,  
8 is amended to read as follows:

9 Sec. 94.204. NONRENEWAL OF LEASE [~~TERMINATION~~] FOR CHANGE  
10 IN LAND USE.

11 SECTION 69. Section 94.204(a), Property Code, is amended to  
12 read as follows:

13 (a) A landlord may choose not to renew [~~terminate~~] a lease  
14 agreement to change the manufactured home community's land use only  
15 if not later than the 180th day before the date the land use will  
16 change:

17 (1) [~~not later than the 120th day before the date the~~  
18 ~~land use changes,~~] the landlord sends notice to the tenant, to the  
19 owner of the manufactured home if the owner is not the tenant, and  
20 to the holder of any lien on the manufactured home:

21 (A) specifying the date that the land use will  
22 change; and

23 (B) informing the tenant, owner, and lienholder,  
24 if any, that the owner must relocate the manufactured home; and

25 (2) [~~not later than the 120th day before the date the~~  
26 ~~land use changes,~~] the landlord posts in a conspicuous place in the  
27 manufactured home community a notice stating that the land use will

1 change and specifying the date that the land use will change.

2 SECTION 70. Sections 11.432(a) and (b), Tax Code, are  
3 amended to read as follows:

4 (a) For a manufactured home to qualify for an exemption  
5 under Section 11.13 [~~of this code~~], the application for the  
6 exemption must be accompanied by a copy of the statement of  
7 ownership and location for the manufactured home issued by the  
8 manufactured housing division of the Texas Department of Housing  
9 and Community Affairs under Section 1201.207, Occupations Code,  
10 showing that the individual applying for the exemption is the owner  
11 of the manufactured home or be accompanied by a verified copy of the  
12 purchase contract showing that the applicant is the purchaser of  
13 the manufactured home, unless a photostatic copy of the current  
14 title page for the home is displayed on the computer website of the  
15 Texas Department of Housing and Community Affairs. The appraisal  
16 district may rely upon the computer records of the Texas Department  
17 of Housing and Community Affairs to determine whether a  
18 manufactured home qualifies for an exemption.

19 (b) The land on which a manufactured home is located  
20 qualifies for an exemption under Section 11.13 only if:

21 (1) the manufactured home qualifies for an exemption  
22 as provided by Subsection (a); and

23 (2) the manufactured home is listed together with the  
24 land on which it is located under Section 25.08. The consumer is  
25 entitled to obtain the homestead exemptions provided by Section  
26 11.13 regardless of whether the owner has elected to treat the home  
27 as real property or personal property and regardless of whether the

1 home is listed on the tax rolls with the real property to which it is  
2 attached or separately.

3 SECTION 71. Section 31.072, Tax Code, is amended by adding  
4 Subsection (i) to read as follows:

5 (i) Notwithstanding Subsection (a), if the property owner  
6 requesting a collector to establish an escrow account under this  
7 section is the owner of a manufactured home and the escrow account  
8 is to be used solely to provide for the payment of property taxes  
9 collected by the collector on the property owner's manufactured  
10 home, the collector shall enter into a contract with the property  
11 owner under this section.

12 SECTION 72. Section 32.03, Tax Code, is amended to read as  
13 follows:

14 Sec. 32.03. RESTRICTIONS ON PERSONAL PROPERTY TAX  
15 LIEN. (a) Except as provided by Subsection (a-1), a tax lien may  
16 not be enforced against personal property transferred to a buyer in  
17 ordinary course of business as defined by Section 1.201(9) of the  
18 Business & Commerce Code for value who does not have actual notice  
19 of the existence of the lien.

20 (a-1) With regard to a manufactured home, a tax lien may be  
21 recorded at any time not later than six months after the end of the  
22 year for which the tax was owed. A tax lien on a manufactured home  
23 may be enforced if it has been recorded in accordance with the laws  
24 in effect at the time of the recordation of the lien. A properly  
25 recorded tax lien may not be enforced against a new manufactured  
26 home that is owned by a person who acquired the manufactured home  
27 from a retailer as a buyer in the ordinary course of business [~~A tax~~

1 ~~lien against a manufactured home may not be enforced unless it has~~  
2 ~~been recorded with the Texas Department of Housing and Community~~  
3 ~~Affairs as provided by Section 1201.219, Occupations Code:~~

4 ~~[(1) before October 1, 2005; or~~

5 ~~[(2) not later than six months after the end of the~~  
6 ~~year for which the tax was owed].~~

7 (a-2) A person may not transfer ownership [~~title~~] of a  
8 manufactured home until all tax liens perfected on the home that  
9 have been timely filed with the Texas Department of Housing and  
10 Community Affairs have been extinguished or satisfied and released  
11 and any personal property taxes on the manufactured home which  
12 accrued on each January 1 that falls within the 18 months preceding  
13 the date of the sale have been paid. This subsection does not apply  
14 to the sale of a manufactured home in inventory.

15 (b) A bona fide purchaser for value or the holder of a lien  
16 recorded on a [~~the~~] manufactured home statement of ownership and  
17 location is not required to pay any taxes that have not been  
18 recorded with the Texas Department of Housing and Community  
19 Affairs. In this section, manufactured home has the meaning  
20 assigned by Section 32.015(b). Unless a tax lien has been filed  
21 timely with the Texas Department of Housing and Community Affairs,  
22 no taxing unit, nor anyone acting on its behalf, may use a tax  
23 warrant or any other method to attempt to execute or foreclose on  
24 the manufactured home.

25 (c) A taxpayer may designate in writing which tax year will  
26 be credited with a particular payment. If a taxpayer pays all the  
27 amounts owing for a given year, the taxing unit shall issue a

1 receipt for the payment of the taxes for the designated year.

2 (d) Notwithstanding any other provision of this section, if  
3 a manufactured home was omitted from the tax roll for either or both  
4 of the two preceding tax years, the taxing unit may file a tax lien  
5 within the 150-day period following the date on which the tax  
6 becomes delinquent.

7 (e) If personal property taxes on a manufactured home have  
8 not been levied by the taxing unit, the taxing unit shall provide,  
9 upon request, an estimated amount of taxes computed by multiplying  
10 the taxable value of the manufactured home, according to the most  
11 recent certified appraisal roll for the taxing unit, by the taxing  
12 unit's adopted tax rate for the preceding tax year. In order to  
13 enable the transfer of the manufactured home, the tax collector  
14 shall accept the payment of the estimated personal property taxes  
15 and issue a certification to the Texas Department of Housing and  
16 Community Affairs that the estimated taxes are being held in escrow  
17 until the taxes are levied. Once the taxes are levied, the tax  
18 collector shall apply the escrowed sums to the levied taxes. At the  
19 time the tax collector accepts the payment of the taxes, the tax  
20 collector shall provide notice that the payment of the estimated  
21 taxes is an estimate that may be raised once the appraisal rolls for  
22 the year are certified and that the new owner may be liable for the  
23 payment of any difference between the tax established by the  
24 certified appraisal roll and the estimate actually paid.

25 SECTION 73. (a) The following provisions of the  
26 Occupations Code are repealed:

27 (1) Section 1201.059;

- 1           (2) Section 1201.112;
- 2           (3) Sections 1201.113(c), (d), (e), (f), and (g);
- 3           (4) Section 1201.163;
- 4           (5) Sections 1201.214(c) and (d); and
- 5           (6) Section 1201.408.

6           (b) Section 2306.6023, Government Code, is repealed.

7           SECTION 74. The changes in law made by this Act to Sections  
8 94.051, 94.052, 94.053, and 94.204, Property Code, apply only to a  
9 lease agreement or a renewal to a lease agreement entered into after  
10 the effective date of this Act. A lease agreement or a renewal to a  
11 lease agreement entered into on or before the effective date of this  
12 Act is covered by the law in effect at the time the lease agreement  
13 or the renewal to the lease agreement was entered into, and the  
14 former law is continued in effect for that purpose.

15           SECTION 75. The change in law made by this Act applies only  
16 to the sale, exchange, or lease-purchase of a new or used  
17 manufactured home on or after the effective date of this Act. A  
18 sale, exchange, or lease-purchase of a new or used manufactured  
19 home before the effective date of this Act is governed by the law in  
20 effect on the date of the sale, exchange, or lease-purchase, and the  
21 former law is continued in effect for that purpose.

22           SECTION 76. Except as otherwise provided by this Act, the  
23 changes in law made by this Act apply only to a license issued or  
24 renewed by the Texas Department of Housing and Community Affairs on  
25 or after January 1, 2008. An issuance or renewal that occurs before  
26 January 1, 2008, is governed by the law in effect immediately before  
27 that date, and the former law is continued in effect for that

1 purpose.

2 SECTION 77. The change in law made by this Act applies only  
3 to an offense committed on or after the effective date of this Act.  
4 An offense committed before the effective date of this Act is  
5 governed by the law in effect when the offense was committed, and  
6 the former law is continued in effect for that purpose. For  
7 purposes of this section, an offense was committed before the  
8 effective date of this Act if any element of the offense was  
9 committed before that date.

10 SECTION 78. The changes in law made by this Act to  
11 provisions of the Tax Code apply only to an ad valorem tax year that  
12 begins on or after January 1, 2008. The changes in law made to those  
13 provisions do not affect a tax lien that attached to property for a  
14 tax year that began before January 1, 2008, and the law in effect  
15 immediately before January 1, 2008, is continued in effect for  
16 purposes of the tax lien.

17 SECTION 79. This Act takes effect January 1, 2008.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1460 was passed by the House on April 26, 2007, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1460 on May 24, 2007, by the following vote: Yeas 142, Nays 4, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1460 was passed by the Senate, with amendments, on May 22, 2007, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor